NEW MEXICO
DEPARTMENT OF TRANSPORTATION

TRANSPORTATION COMMISSION MEETING

June 13, 2017

New Mexico Department of Transportation
General Office Training Room 2
1120 Cerrillos Road
Santa Fe, New Mexico 87504
New Mexico Department of Transportation
General Office Training Room 2
1120 Cerrillos Road
Santa Fe, New Mexico 87504
June 13, 2017
1:30 pm

Special Meeting Agenda

1) Call to Order: Ronald Schmeits, Chairman
   a) Pledge of Allegiance

2) Approval of Agenda: Ronald Schmeits, Chairman

3) Approval of Minutes: Las Vegas Meeting May 18, 2017

4) Introductions: Ronald Schmeits, Chairman
   a) Elected Officials
   b) Commission Members
   c) NMDOT Executive Staff

5) Public Comment:

6) Staff Briefings:
   a) Request for Final Rulemaking Action Regarding Proposed Amendments to NMDOT
      Rule 18.31.6 NMAC, State Highway Access Management Requirements: Rick
      Padilla, P.E., State Maintenance Manager, NMDOT

   b) Authorizing Resolution Approving Alternate WIPP Route Use: Loren Hatch, Deputy
      Secretary, NMDOT

   c) Parameters Resolution Authorizing Bond Refunding: Marcos Trujillo, Project
      Oversight Division, NMDOT

7) Action Items:
   a) Approval of Final Rulemaking Action Regarding Proposed Amendments to NMDOT
      Rule 18.31.6 NMAC, State Highway Access Management Requirements: Rick
      Padilla, P.E., State Maintenance Manager, NMDOT

   b) Approval of Authorizing Resolution Approving Alternate WIPP Route Use: Loren
      Hatch, Deputy Secretary, NMDOT

   c) Approval of Proposed Final Rule to Amend or Repeal and Replace Rule 18.28.3
      NMAC, Transportation and Highways, Highway Contracting and Bidding, Selection
      of Committee for Qualifications Based Proposals: Anthony Lujan, Deputy
      Secretary, NMDOT
d) Approval of Parameters Resolution Authorizing Bond Refunding: Marcos Trujillo, Project Oversight Division, NMDOT

8) Adjournment
Tab 1-2
Call to Order
Pledge of Allegiance
Approval of Agenda
Agenda Items 1-2

1. Call to Order: Ronald Schmeits, Chairman
   a) Pledge of Allegiance

2. Approval of Agenda: Ronald Schmeits, Chairman
Tab 3
Approval of Minutes
The New Mexico State Transportation Commission (STC or Commission) held a regular meeting on May 18, 2017, at the New Mexico Department of Transportation, District Four Auditorium, Las Vegas, New Mexico. Chairman Schmeits called the meeting to order at 8:30 a.m. Commissioner Mortensen led meeting attendees in the Pledge of Allegiance.

Approval of the STC Meeting Agenda

Chairman Schmeits asked for a motion to approve the STC meeting agenda; Commissioner Mathews made a motion to so approve; Commissioner Sepich seconded; motion carried unanimously.

Approval of the STC Minutes

Chairman Schmeits asked for a motion to approve the minutes of the regular STC meeting of March 16, 2017; Commissioner Mathews made a motion to so approve; Commissioner Mortensen seconded; motion carried unanimously.
**Elected Officials and Delegations:**

Tonita Gurule-Giron, Mayor, City of Las Vegas  
Richard Cordova, Mayor, Village of Eagle Nest  
James “Landon” Newton, Commissioner, District Three, Colfax County

**State Transportation Commissioners Present:**

Kenneth White, Secretary, District One  
David Sepich, Commissioner, District Two  
Keith Mortensen, Commissioner, District Three  
Ron Schmeits, Chairman, District Four  
Butch Mathews, Vice-Chairman, District Five  
Jackson Gibson, Commissioner, District Six

**NMDOT Staff Present:**

Tom Church, Cabinet Secretary  
Anthony Lujan, Deputy Secretary  
Kenneth B. Baca, Chief Deputy General Counsel  
NMDOT Staff

**Welcoming Remarks**

The Commissioners, NMDOT Executive Staff and J. Don Martinez, Division Administrator, FHWA introduced themselves and welcomed all those in attendance at the meeting.

**Presentations by Elected Officials and Delegations**

Brian Jones, Executive Director, Asphalt Pavement Association of New Mexico, presented awards for the following prize winning projects completed by NMDOT: (1) District One, 2016 Best of New Mexico Urban Highway Resurfacing, Mountain States Constructors, contractor; (2) District Two, 2016 Best of New Mexico Rural Highway Reconstruction, Fisher Sand and Gravel, contractor; (3) District Two, 2016 Best of New Mexico Rural Highway...
Rehabilitation, James Hamilton Construction, contractor; (4) District Four, National Asphalt Pavement Association (NAPA) Quality in Construction Award (over 50,000 tons), Fisher Sand and Gravel, contractor; (5) District Four, NAPA Quality in Construction Award (under and over 50,000 tons), Fisher Sand and Gravel, contractor; and (6) District Five, NAPA Quality in Construction Award (over 50,000 tons), Mountain States Constructors, contractor.

**NMDOT Prequalification Program**

Armando Armendariz, State Construction Bureau, NMDOT, discussed NMDOT’s (Pre-Qualification Program). He explained that the program was created as an experimental project (Special Experimental Project 14 (SEP-14)) by NMDOT and is fully supported by the Federal Highway Administration (FHWA). It has resulted in an increase in the average number of bidders on projects and has been so successful that other states, including Pennsylvania, New Jersey and Utah, and other countries, including Canada and Saudi Arabia, are now interested in the program.

**Public Comment**

Todd Shrader, Manager, U.S. Department of Energy, Waste Isolation Pilot Plant (WIPP), Carlsbad Field Office, gave a brief presentation regarding the status of the WIPP facility in New Mexico. He reported that WIPP has reopened, has started taking shipments again, and that Congress recently appropriated $26.8 million for the facility. He discussed funding status and budget, projected shipping estimates, alternate WIPP routes, the consideration of a new route and the advantages therefor, as well as the need to request a further extension of an existing alternate route, the current authorization for which ends on May 31, 2017.
Lynn Aldrich, Town of Taos, volunteer with New Mexico Rail and the New Mexico Representative to the National Association of Rail Passengers Council, commented regarding the Amtrak Southwest Chief and, on behalf of train riders, thanked the STC, the Secretary of NMDOT, and NMDOT staff for their work with Colorado and Kansas last year on the TIGER Grant application that was approved. The grant provided funding for track upgrades and ultimately helped save the Southwest Chief.

Morris Madrid, Public Works Director, San Miguel County, expressed his gratitude to David Trujillo, P.E., District Four Engineer; NMDOT, Heather Sandoval, Assistant District Engineer for Engineering, NMDOT; and NMDOT District Four staff for their outstanding work, as well as the assistance they provided on the cooperative multi-purpose trail project with the City of Las Vegas.

**District Four Presentation and Employee Recognition**

David Trujillo, P.E., District Four Engineer, NMDOT, gave a presentation regarding District Four activities, during which he discussed the District’s various projects and maintenance accomplishments. He also reported on the District’s Employee Recognition Program and acknowledged 2016 award recipients, Matthew Ulibarri, Crew 44-40, Santa Rosa, as Employee of the Year; Crew 44-54, Raton Patrol, as Crew of the Year; and the hands-free jig, developed by Ricardo Archuleta, Las Vegas Patrol, and the blade changing tool, developed by the Wagon Mound Patrol, as Best Practice Program winners.

District Engineer Trujillo also acknowledged Anthony Rivera and David Eggert, the two District Four employees who were tragically killed while performing highway work in March 2016. He reported that Messrs. Rivera and Eggert were recently recognized by Governor
Martinez and their names were placed on the traveling National Work Zone Memorial wall dedicated to the memories of those lost in the Nation’s roadway work zones.

District Engineer Trujillo introduced Tonita Gurule-Giron, Mayor, City of Las Vegas, who welcomed the STC to the City and thanked District staff for their work in and around the community and their collaboration on cooperative projects with the City.

**Workshop Agenda**

**Finance Committee**

**Monthly Financial Report**

Michael Friel, Accounting Services Director/Chief Financial Officer, NMDOT, presented the NMDOT operating budget and financial report as of May 5, 2017. The current adjusted budget for Programs and Infrastructure is $647.9 million; Highway Operations, $240.2 million; Business Operations, $42.1 million; and Modal, $74.5 million. There is $292.1 million in encumbrances, and expenses of $474.8 million. Mr. Friel indicated that NMDOT is in good financial standing at this time, and, regarding the current vacancy rate within NMDOT, he reported that Project Design and Construction is at 21.8%; Highway Operations, 12.2%; Business Operations, 14.7%; and Modal, 14%.

**FY17 Budget Adjustment Request (BAR) No. 20**

Mallery Martinez, Acting Budget Director, NMDOT, presented FY17 BAR No. 20. Bar No. 20 for Modal is required for a “program transfer” in the amount of $500,000. The BAR will provide budget authority from Project Design and Construction (P562) to cover a projected shortfall in Modal (P565) personal services and employee benefits (Category 200) as a result of
(1) the transfer of 31 FTEs from Project Design and Construction to Modal; and (2) vacancy rate reductions attributable to aggressive recruitment efforts.

**FY18 NMDOT Operating Budget**

Mallery Martinez, Acting Budget Director, NMDOT, outlined the particulars of NMDOT’s FY18 Operating Budget in the total amount of $876,395,600. She indicated that later in the meeting she would be requesting the STC’s approval of NMDOT’s FY18 Operating Budget, as appropriated by the General Appropriation Act of 2017 (2017 Regular Legislative Session, House Bill 2) and signed by Governor Susana Martinez on April 7, 2017. NMDOT’s total FY18 Operating Budget is $876,395,600, which includes Project Design and Construction, $536,056,700; Highway Operations, $233,794,900; Business Operations $42,165,700; and Modal $64,378,300.

**Clarification of FY17 Budget Adjustment Request (BAR) No. 18**

In compliance with the STC’s request at its March 16, 2017 meeting, Michael Sandoval, Executive Manager, Modal Program, NMDOT, presented supplemental information regarding FY17 BAR No. 18. He explained that the BAR would increase budget authority by $400,000 in Category 300/Contractual Services for the Traffic Safety Driver Improvements Fund. The BAR would support the Driver Improvements Program (1) by funding a contractual service agreement for data entry processing and front end quality control of uniform crash reports to be entered into the TRACs system to ensure accurate data for traffic fatalities and crash data; and (2) by providing funds for a continuing education contract to develop and implement a quality assurance monitoring, licensing and training system that ensures existing applicants and renewal
of licenses for driving schools comply with governing state statues, state rules, and TSD policies and procedures.

**New Mexico Finance Authority (NMFA) Monthly Report**

Mark Lovato, Investment Manager, NMFA, provided an update regarding NMDOT’s portfolio funds under NMFA management. As of April 30, 2017, the balance in the portfolio was $125.2 million, a net increase of $8.6 million from March. The change is attributed to debt service payments of $384,381, draws of $3.9 million, plus total earnings of $51,704, and $12.8 million in debt service set asides. There is 23% in the project account, of which $15,069 is in the 2010A bond fund account, $28.9 million in the 2014A Highway Infrastructure Fund (HIF) account, 77% in debt service accounts, and less than 1% in the arbitrage rebate account. On April 30, 2017, the balance in the taxable line of credit at RBC was $50 million for collateral needs, and the balance in the taxable line of credit at Wells Fargo was $50 million for the BNSF Escrow account. Mr. Lovato also provided a breakdown regarding NMDOT/NMFA outstanding debt service.

**Infrastructure Committee**

**Update on Airport Projects**

Steve Summers, Aviation Division Director, NMDOT, updated the STC regarding New Mexico airport projects. In response to concerns the STC expressed at its March 16, 2017 meeting regarding FY17 BAR No. 19, which increased Aviation Division budget authority by $2.75 million for multiple construction/maintenance projects and equipment needs, Mr. Summers introduced the Aviation Division’s list of priority and shovel ready projects. He reported that the federal omnibus funding bill was approved on May 5, 2017. The bill included
Federal Aviation Administration (FAA) funding that will now filter through the FAA to the five states in southwest region. The Aviation Division will be negotiating with the FAA to initiate as many of the projects on the priority list as possible. Mr. Summers anticipates providing a more detailed update to the STC at its July meeting. He also responded to the questions the STC asked in March regarding the reasons that projects take so long to complete. He explained (1) projects are subject to available FAA funding and are subject to FAA’s fiscal year, which is different from NMDOT’s fiscal year; (2) in certain areas of New Mexico, there is a very short construction season due to weather conditions; and (3) project funding is only allocated in portions because of FAA’s continuing resolutions. Accordingly, aviation projects are always at least a year behind.

**FY18 Local Government Road Fund (LGRF) Program**

Clarissa Martinez, Project Oversight Division, NMDOT, reported regarding the FY18 LGRF Program. She explained that the LGRF is a designated state fund administered by NMDOT, which assists local governments to pay for approved local construction and maintenance projects. The state provides 75% of the project funding, which local entities must match at 25%. Ms. Martinez also discussed the proposed FY18 LGRF project list, the specific costs allocated to each program within the LGRF, and the total FY18 LGRF budget request of $20.1 million for all six transportation districts.

**Policy Committee**

**Request to Complete Rulemaking Action on Proposed Amendments to NMDOT Rule 18.31.6 NMAC, State Highway Access Management Requirements**
Rick Padilla, P.E., State Maintenance Manager, NMDOT, presented a rule action report package regarding proposed amendments to NMDOT Rule 18.31.6 NMAC, State Highway Access Management Requirements. Following discussion, the STC concluded that further information is required and additional amendments may be warranted prior to granting final approval to complete the rulemaking action.

**Regular Meeting Agenda**

**Staff Briefings**

**Secretary Report**

Tom Church, Cabinet Secretary, NMDOT, reported that NMDOT is currently doing very well and all operations running efficiently. He thanked NMDOT staff for their good work.

**Federal Highway Administration (FHWA) Report**

J. Don Martinez, Division Administrator, FHWA, reported that NMDOT will have funding until the end of September; however, he does not know what will happen after that.

**FY18 NMDOT Office of Inspector General (OIG) Audit Plan**

Jeff Canney, Inspector General, NMDOT, presented the FY18 NMDOT OIG Audit Plan (Audit Plan). He explained that the Audit Plan provides an efficient allocation of limited resources to address broad and effective coverage of NMDOT’s programs. The proposed OIG 2018 audits were selected based on risk, as well as input from senior NMDOT management, federal partners, and OIG staff. The Audit Plan identifies prospective audits in NMDOT’s four programs: Business Support, Infrastructure and Maintenance, Highway Operations, and Modal.
In addition, part of the Audit Plan is devoted to follow-up reviews that will assess the progress made to correct findings identified in previous audits in which corrective action plans were issued.

**NMDOT Annual Report to State Auditor Regarding Regional Transit Districts**

David Harris, Transit and Rail Division Director, NMDOT, presented NMDOT’s Annual Report to the State Auditor regarding Regional Transit Districts. He explained that under the provisions of Commission Policy 90, Certification of Regional Transit District (RTD), and NMSA 1978, Section 73-25-15 (B), the STC is required to file an annual report with the State Auditor concerning the activities of all active Regional Transit Districts. The report details how many districts have been created, describes their boundaries and specifies the regional transit systems that are being provided and how they are being funded. The report will be sent to the State Auditor in August 2017.

**Consent Action Items**

Chairman Schmeits asked for a motion to approve STC agenda consent action items 11(a) Approval of FY17 Budget Adjustment Requests No. 18, Modal, Driver Improvement Program, and No. 20, Modal, Project Design and Construction; 11(b) Approval of NMDOT FY18 Operating Budget; 11(c) Approval of FY18 NMDOT OIG Audit Plan; 11(d) Approval of Amendments to Commission Policy 30, Office of Inspector General (CP 30); and 11(e) Approval of FY18 Local Government Road Fund Program.

Commissioner Mathews made a motion to so approve; Commissioner White seconded; motion carried unanimously.
STC Agenda Action Item 12(a), Approval of Final Rulemaking Action Regarding Proposed Amendments to NMDOT Rule 18.31.6 NMAC, State Highway Access Management Requirements

Chairman Schmeits inquired regarding the STC’s desire with respect to STC agenda action item 12 (a) Final Rulemaking Action regarding Proposed Amendments to NMDOT Rule 18.31.6 NMAC, State Highway Access Management Requirements.

Commissioner Mathews made a motion to table STC agenda action item subject to making further improvements to the rule at special STC meeting to be scheduled prior to June 30, 2017; Commissioner Gibson seconded; motion carried unanimously.

Adjournment

Chairman Schmeits asked for a motion to adjourn the regular meeting at 11:50 a.m.; Commissioner Mathews made a motion to so adjourn; Commissioner Gibson seconded; motion carried unanimously.

__________________________   _______________________
Chairman                                                                   Secretary

Ronald Schmeits      Kenneth R. White
Tab 4

Introductions
4. Introductions and Welcoming Remarks: Ronald Schmeits, Chairman

a. Elected Officials
b. Commission Members
c. NMDOT Executive Staff
Tab 5
Public Comment
<table>
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<th>Public Comment</th>
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Tab 6a
Request for Final Rulemaking Action Regarding Proposed Amendments to NMDOT Rule 18.31.6 NMAC, State Highway Access Management Requirements
Commission Brief

SUBJECT: Final rulemaking action regarding proposed amendments to NMDOT rule 18.31.6 NMAC, State Highway Access Management Requirements.

Pursuant to the provisions of Commission Policy 4 (CP 4), final rulemaking action for a proposed rule requires that the Secretary of Transportation or designee, following the public hearing(s) on the proposed rule action, prepare and present to the STC a final rule action report and recommendation together with the final iteration of the proposed rule. The STC may thereafter question the Secretary or designee regarding the report and recommendation and take any action it deems appropriate. After the STC adopts the proposed rule action, with whatever alterations it deems appropriate, the rule will be filed with the New Mexico Commission of Public Records, State Records Center and Archives on or before June 15, 2017 and published in the New Mexico Register on June 27, 2017.

PRESENTER: Rick Padilla, P.E., State Maintenance Manager

REFERENCE DOCUMENTS: Proposed amended NMDOT rule 18.31.6 NMAC, State Highway Access Management Requirements and final rule action report and recommendation.

BACKGROUND: Pursuant to NMSA 1978, Section 67-11-2, the STC is “authorized and directed to do those things essential to plan, acquire by reasonable purchase or condemnation and construct a section or a part of a state or federally designated highway as a freeway or controlled-access highway or to make any existing state or federally designated highway a freeway or a controlled-access highway.” Further, under NMSA 1978, Section 67-3-6, NMDOT is authorized to exercise the power, authority and duty granted to the STC, and, therefore, may prescribe rules and regulations for providing access to state highways pursuant to NMSA 1978, Chapter 67.
The purpose of the proposed amendments are to (1) add provisions that clarify the authority of the STC to approve all access control changes in addition to requested breaks in interstate access controlled rights of way; and (2) make certain other technical updates to the rule to bring it into compliance with current standards.

Because the rule, when finalized, will directly affect the substantive rights of NMDOT and individuals outside NMDOT by the imposition of certain requirements on both, the STC’s approval was required to initiate the rulemaking process. Said approval was granted on December 4, 2014. NMDOT has taken all of the requisite steps in the rulemaking process to promulgate the rule, including conducting a public hearing for the purpose of receiving oral and written public comment on the proposed amendments to the rule. Pursuant to the provisions of CP 4, NMDOT is now seeking the STC’s final approval of the proposed rule prior to publishing.

**ACTION:** Staff recommends that the STC authorize NMDOT to complete rulemaking action regarding proposed amendments to NMDOT rule 18.31.6 NMAC, State Highway Access Management Requirements.
Date: June 7, 2017

To: Tom Church
Secretary of Transportation

From: Andrew Gallegos
NMDOT Traffic Operations Engineer

Subject: Final Rule Action Report Regarding Proposed Amendments to NMDOT Rule, 18.31.6 NMAC - State Access Management Requirements

At its regular meeting on December 4, 2014, the New Mexico State Transportation Commission (STC) passed a motion to initiate action to amend NMDOT Rule, 18.31.6 NMAC - State Access Management Requirements.

The purpose of the amendments are to (1) add provisions that clarify the authority of the STC to approve all access control changes in addition to requested breaks in interstate access controlled rights of way; and (2) make certain other technical updates to the rule to bring it into compliance with current standards.

Pursuant to NMSA 1978, Section 67-11-2, the STC is "authorized and directed to do those things essential to plan, acquire by reasonable purchase or condemnation and construct a section or a part of a state or federally designated highway as a freeway or controlled-access highway or to make any existing state or federally designated highway a freeway or a controlled-access highway." Further, under NMSA 1978, Section 67-3-6, NMDOT is authorized to exercise the power, authority and duty granted to the STC, and, therefore, may prescribe rules and regulations for providing access to state highways pursuant to NMSA 1978, Chapter 67.

By correspondence dated September 28, 2016, a copy of which is attached hereto as Exhibit "A", I was appointed by you, as the Secretary of Transportation, to serve as a hearing officer and to conduct a public hearing for the purpose of receiving oral or written public comment on the proposed rule amendments. In accordance with the provisions of Commission Policy 4, New Mexico State Transportation Commission Rules and Policies (CP 4), I have prepared this report, which shall serve as NMDOT's final rule action report and recommendation to the STC.

A Notice of Public Hearing ("Notice") on the proposed rule amendments, advising interested parties
of the scheduled hearing date of December 8, 2016, was published in the New Mexico Register and on NMDOT’s public notices web page (http://dot.state.nm.us/content/nmdot/en/public-notices.html) on October 31, 2016, as well as in the three following general circulation newspapers required per CP 4:

<table>
<thead>
<tr>
<th>Publication Name</th>
<th>Date of Publication</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Santa Fe New Mexican</td>
<td>October 31, 2016</td>
</tr>
<tr>
<td>Albuquerque Journal</td>
<td>October 31, 2016</td>
</tr>
<tr>
<td>Las Cruces Sun News</td>
<td>October 31, 2016</td>
</tr>
</tbody>
</table>

A copy of the Notice, as published, is appended hereto as Exhibit “B”. Copies of the affidavits confirming publication of the Notice in the New Mexico Register and the three above listed general circulation newspapers are attached hereto as Exhibit “C”, and a copy of NMDOT’s public notices web page displaying the Notice, as posted, showing the web page address and date of publication at the bottom is appended hereto as Exhibit “D”.

The public comment hearing was held on December 8, 2016 from 1:00 p.m. to 4:00 p.m. in Training Rooms 1 and 2 at the NMDOT General Office, 1120 Cerrillos Road, Santa Fe, New Mexico. Only two interested parties attended the public comment hearing, both of whom stated their support for the proposed amendments to the rule. However, both expressed concern about what they perceived as the lack of an established deadline by which NMDOT must review and approve a Traffic Impact Analysis (TIA) and requested the State Access Management Manual (SAMM) be amended concurrently with the rule. In response, NMDOT representatives explained that the rule does, in fact, include the subject deadline, but that it is tied to the requirement that developers or consultants address any comments provided by NMDOT in any TIA submitted in connection with the proposed access. NMDOT representatives also explained that it would be more practical to modify the SAMM after the rule amendments are adopted because although the amendments impact the SAMM, changes to the SAMM do not necessitate amendments to the rule. Both parties concurred and remained supportive of the rule amendments. Based on such concurrence and the fact that the NMDOT State Maintenance Bureau did not receive any oral or written comments from any other interested parties, there will be no additional modifications to the rule. Copies of a written record of the proceedings (transcript prepared by Bean & Associates, Inc.) and the hearing sign-in sheet are appended hereto as Exhibits “E” and “F”, respectively.

Attached hereto for your review and approval, as Exhibit “G”, is a copy NMDOT’s final proposed rule, 18.31.6 NMAC - State Access Management Requirements, as amended. Also appended for your reference, as Exhibit “H”, is a copy of a redline version of the proposed rule which shows all proposed amendments in redline.

Attachments

cc: Loren Hatch, General Counsel
    Kenneth Baca, Deputy General Counsel
    William Moyers, Assistant General Counsel
    Rick Padilla, State Maintenance Manager
    Stephanie Nemett
Approved:

Tom Church
Secretary of Transportation

7 June 2017

Date
EXHIBIT "A"
New Mexico Department of Transportation
INTRA-DEPARTMENTAL CORRESPONDENCE

DATE: September 28, 2016

TO: Andrew Gallegos, P.E.
Traffic Operations Engineer

FROM: Tom Church
Secretary of Transportation

SUBJECT: Appointment of Hearing Officer
Rule 18.31.6 NMAC – State Highway Access Management Requirements

The New Mexico State Transportation Commission, at its regular meeting held on December 4, 2014, in Las Cruces, New Mexico, by motion made, voted upon and adopted unanimously, and directed me, as the Secretary of Transportation, to initiate rule action to amend NMDOT rule, 18.31.6 NMAC – State Highway Access Management Requirements, and to appoint a suitable hearing officer.

This is to notify you that I have appointed you to be the hearing officer to conduct the public hearing for the purpose of receiving oral or written public comment on 18.31.6 NMAC – State Highway Access Management Requirements.

The hearing is scheduled on December 8, 2016, from 1:00 a.m. to 4:00 p.m. at the New Mexico Department of Transportation, General Office, Training Rooms 1 and 2, 1120 Cerrillos Road, Santa Fe, New Mexico.

Approved:

Tom Church
Secretary of Transportation

Date

EXHIBIT "A"
NOTICE OF PUBLIC HEARING

The New Mexico Department of Transportation (NMDOT) will hold a public hearing for the purpose of receiving oral and written public comment on proposed amendments to 18.31.6 NMAC, State Highway Access Management Requirements. The purpose of the amendments to the rule are to (1) add provisions that clarify the authority of the New Mexico State Transportation Commission to approve all access control changes in addition to requested breaks in interstate access controlled rights of way; and (2) make certain other technical updates to the rule to bring it into compliance with current standards.

The hearing is scheduled on December 8, 2016, from 1:00 p.m. to 4:00 p.m. at the New Mexico Department of Transportation, General Office, Training Rooms 1 and 2, located at 1120 Cerrillos Road, Santa Fe, New Mexico. Please contact Rebecca Romero, State Maintenance Division, New Mexico Department of Transportation, P.O. Box 1149, State Building 4, Santa Fe, New Mexico 87504-1149, Telephone (505) 995-7903 to request a copy of the rule. This Notice and the proposed rule, as amended, are also available on NMDOT’s website: http://dot.state.nm.us/en/public-notices.html

The hearing will be held before Andrew Gallegos P.E., Traffic Operations Director, NMDOT. Interested persons may also present their views by written statements submitted on or before November 18, 2016, to New Mexico Department of Transportation, P.O. Box 1149, State Building 4, Santa Fe, New Mexico 87504-1149, Telephone (505) 995-7903.

Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule in an accessible form may contact Rebecca Romero at (505) 995-7903 at least ten (10) days before the hearing.
EXHIBIT "C"
NM Commission of Public Records
1205 Camino Carlos Rey
Santa Fe 87507 US
(505) 476-7913

Invoice

BILL TO
Department of Transportation
Rebecca Romero
1120 Cerrillos Rd.
Santa Fe, NM 87504

INVOICE #
1929
DATE
10/31/2016
TOTAL DUE
$27.50
DUE DATE
10/31/2016

ISSUE
20
PUBLICATION
10/31/2016
P.O. NUMBER
80500-0000250293

DATE
ACTIVITY
10/31/2016
N.M. Register - 431902 - Columnar Inch - Vol. XXVII, Notice

QTY
11
RATE
2.50
AMOUNT
27.50

BALANCE DUE
$27.50

I, Matt Ortiz, certify that the agency noted above has published legal
notices or rules in the NEW MEXICO REGISTER, VOL. XXVI, and that
payment has been assessed for said legal notice or publication, which
appears on the publication date and issue number noted above.

Affiant:
Publisher New Mexico Register

Subscribed, sworn and acknowledged before me this 1st day of
November 2016.

Notary Public
My Commission Expires: May 5, 2020

I certify that this is accurate to the
Best of my knowledge
Print: [signature]

RECEIVED

ORIGINAL

#18559
STATE OF NEW MEXICO
COUNTY OF SANTA FE

I, W. Barnard, being first duly sworn declare and say that I am Legal Advertising Representative of THE SANTA FE NEW MEXICAN, a daily newspaper published in the English language, and having a general circulation in the Counties of Santa Fe, Rio Arriba, San Miguel, and Los Alamos, State of New Mexico and being a newspaper duly qualified to publish legal notices and advertisements under the provisions of Chapter 167 on Session Laws of 1937; that the Legal No 81710 a copy of which is hereto attached was published in said newspaper 1 day(s) between 10/31/2016 and 10/31/2016 and that the notice was published in the newspaper proper and not in any supplement; the first date of publication being on the 31st day of October, 2016 and that the undersigned has personal knowledge of the matter and things set forth in this affidavit.

LEGAL ADVISOR

Sworn to and subscribed before me this 1st day of November, 2016.

Notary

Commission Expires: 10/05/2020

Ofelia Martinez
Notary Public
State of New Mexico
LEGAL #81710

NOTICE OF PUBLIC HEARING

The New Mexico Department of Transportation (NMDOT) will hold a public hearing for the purpose of receiving oral and written public comment on proposed amendments to 18.31.6 NMAC, State Highway Access Management Requirements. The purpose of the amendments to the rule are to (1) add provisions that clarify the authority of the New Mexico State Transportation Commission to approve all access control changes in addition to requested breaks in interstate access controlled rights of way; and (2) make certain other technical updates to the rule to bring it into compliance with current standards.

The hearing is scheduled on December 8, 2016, from 1:00 p.m. to 4:00 p.m. at the New Mexico Department of Transportation, General Office, Training Rooms 1 and 2, located at 1120 Cerrillos Road, Santa Fe, New Mexico. Please contact Rebecca Romero, State Maintenance Division, New Mexico Department of Transportation, P.O. Box 1149, State Building 4, Santa Fe, New Mexico 87504-1149, Telephone (505) 995-7903 to request a copy of the rule. This Notice and the proposed rule, as amended, are also available on NMDOT’s website: http://dot.state.nm.us/en/public-notices.html

The hearing will be held before Andrew Gallegos P.E., Traffic Operations Director, NMDOT. Interested persons may also present their views by written statements submitted on or before December 1, 2016, to New Mexico Department of Transportation, P.O. Box 1149, State Building 4, Santa Fe, New Mexico 87504-1149, Telephone (505) 995-7903.

Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule in an accessible form may contact Rebecca Romero at (505) 995-7903 at least ten (10) days before the hearing.

Published in the Santa Fe New Mexican on Monday, October 31, 2016.

Public Notice ID: 23752201
Print This Notice
AFFIDAVIT OF PUBLICATION

STATE OF NEW MEXICO
County of Bernalillo SS

Bernadette Gonzales, the undersigned, on oath states that she is an authorized Representative of The Albuquerque Journal, and that this newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, Chapter 167, Session Laws of 1937, and that payment therefore has been made of assessed as court cost; that the notice, copy of which is hereto attached, was published in said paper in the regular daily edition, for times on the following dates:

October 31, 2016

Sworn and subscribed before me, a Notary Public, in and for the County of Bernalillo and State of New Mexico this 31 day of October of 2016.

PRICE 47.32

Statement to come at end of month.

ACCOUNT NUMBER 1055970

CLA-22-A (R-1/93)

Authorized Signature

Sandra B. Gutierrez
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 2-1-20-21

Agencies Appointed - I certify that the proposed purchase represented by this document is authorized by and is made in accordance with all State and Federal laws and regulations. I further certify that the accounts certified or budget items authorized in this purchase order exist and are not over the authorized purchase commitments and accounts payable.
New Mexico Public Notice

Public Notice

NOTICE OF PUBLIC HEARING The New Mexico Department of Transportation (NMDOT) will hold a public hearing for the purpose of receiving oral and written public comment on proposed amendments to 18.31.6 NMAC, State Highway Access Management Requirements. The purpose of the amendments to the rule are to (1) add provisions that clarify the authority of the New Mexico State Transportation Commission to approve all access control changes in addition to requested breaks in interstate access controlled rights of way; and (2) make certain other technical updates to the rule to bring it into compliance with current standards. The hearing is scheduled on December 8, 2016, from 1:00 p.m. to 4:00 p.m. at the New Mexico Department of Transportation, General Office, Training Rooms 1 and 2, located at 1120 Cerrillos Road, Santa Fe, New Mexico. Please contact Rebecca Romero, State Maintenance Division, New Mexico Department of Transportation, P.O. Box 1149, State Building 4, Santa Fe, New Mexico 87504-1149, Telephone (505) 995-7903 to request a copy of the rule. This Notice and the proposed rule, as amended, are also available on NMDOT's website: http://dot.state.nm.us/en/public-notices.html The hearing will be held before Andrew Gallegos P.E., Traffic Operations Director, NMDOT. Interested persons may also present their views by written statements submitted on or before December 1, 2016, to New Mexico Department of Transportation, P.O. Box 1149, State Building 4, Santa Fe, New Mexico 87504-1149, Telephone (505) 995-7903. Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule in an accessible form may contact Rebecca Romero at (505) 995-7903 at least ten (10) days before the hearing. Journal: October 31, 2016

Public Notice ID: 23750405

PROOF OF PUBLICATION

I, being duly sworn, Maria Del Villar deposes and says that she is the Legal Coordinator of the Las Cruces Sun-News, a newspaper published daily in the county of Dona Ana, State of New Mexico; that the 1151221 is an exact duplicate of the notice that was published once a week/day in regular and entire issue of said newspaper and not in any supplement thereof for 1 consecutive week(s)/day(s), the first publication was in the issue dated October 31, 2016, the last publication was October 31, 2016. Despondent further states this newspaper is duly qualified to publish legal notice or advertisements within the meaning of Sec. Chapter 167, Laws of 1937.

Signed

[Signature]

Legal Coordinator
Official Position

STATE OF NEW MEXICO

ss.
County of Dona Ana
Subscribed and sworn before me this
day of

[Signature]

Notary Public in and for
Dona Ana County, New Mexico

My Term Expires

NOTICE OF PUBLIC HEARING

The New Mexico Department of Transportation (NMDOT) will hold a public hearing for the purpose of receiving oral and written public comments on proposed amendments to 18.31.6 NMAC, State Highway Access Management Requirements. The purpose of the amendments to the rule are to (1) add provisions that clarify the authority of the New Mexico State Transportation Commission to approve all access control changes in addition to requested breaks in interstate access controlled rights of way; and (2) make certain other technical updates to the rule to bring it into compliance with current standards.

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The hearing will be held before Andrew Gallego P.E., Traffic Operations Director, NMDOT. Interested persons may also present their views by written statements submitted on or before December 1, 2016, to New Mexico Department of Transportation, P.O. Box 1149, State Building 4, Santa Fe, New Mexico 87504-1149, Telephone (505) 995-7903.

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Pub#1151221

Run Date: Oct. 31, 2016
NOTICE OF PUBLIC HEARING

The New Mexico Department of Transportation (NMDOT) will hold a public hearing for the purpose of receiving oral and written public comment on proposed amendments to 18.31.6 NMAC, State Highway Access Management Requirements. The purpose of the amendments to the rule are to (1) add provisions that clarify the authority of the New Mexico State Transportation Commission to approve all access control changes in addition to requested breaks in interstate access controlled rights of way; and (2) make certain other technical updates to the rule to bring it into compliance with current standards.

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The hearing will be held before Andrew Gallegos P.E., Traffic Operations Director, NMDOT. Interested persons may also present their views by written statements submitted on or before December 1, 2016, to New Mexico Department of Transportation, P.O. Box 1149, State Building 4, Santa Fe, New Mexico 87504-1149, Telephone (505) 995-7903.

Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule in an accessible form may contact Rebecca Romero at (505) 995-7903 at least ten (10) days before the hearing.

Pub#1151221
Run Date: Oct. 31, 2016

Public Notice ID: 23750103
Print This Notice
EXHIBIT "D"
NOTICE OF PUBLIC HEARING

The New Mexico Department of Transportation (NMDOT) will hold a public hearing for the purpose of receiving oral and written public comment on proposed amendments to 18.3.1.6 NMAC, State Highway Access Management Requirements. The purpose of the amendments to the rule are to (1) add provisions that clarify the authority of the New Mexico State Transportation Commission to approve all access control changes in addition to requested breaks in interstate access controlled rights of way; and (2) make certain other technical updates to the rule to bring it into compliance with current standards.

The hearing is scheduled on December 8, 2016, from 1:00 p.m. to 4:00 p.m. at the New Mexico Department of Transportation, General Office, Training Rooms 1 and 2, located at 1120 Corrillos Road, Santa Fe, New Mexico. Please contact Rebecca Romero, State Maintenance Division, New Mexico Department of Transportation, P.O. Box 1146, State Building 4, Santa Fe, New Mexico 87504-1146, Telephone (505) 995-7903 to request a copy of the rule. This Notice and the proposed rule, as amended, are also available on NMDOT’s website: http://dot.state.nm.us/content/nmdot/en/public-notices.html

The hearing will be held before Andrew Gallaghs P.E., Traffic Operations Director, NMDOT. Interested persons may also present their views by written statements submitted on or before December 1, 2016, to New Mexico Department of Transportation, P.O. Box 1146, State Building 4, Santa Fe, New Mexico 87504-1146, Telephone (505) 995-7903.

Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule in an accessible form may contact Rebecca Romero at (505) 995-7903 at least ten (10) days before the hearing.

NOTICE OF PUBLIC HEARING

The New Mexico Department of Transportation (NMDOT) will hold a public hearing for the purpose of receiving oral and written public comment on proposed amendments to 18.11.3 NMAC - Air Service Assistance Program and 18.11.6 NMAC - Governing the Approval of Grants. The purpose of the amendments to the rules are to (1) clarify certain provisions of the air service assistance program; (2) clarify the NMDOT Aviation Division's authority to govern and approve grants; and (3) make certain technical updates to the rules to bring them into compliance with current procurement requirements and other standards and regulations.

The hearing is scheduled on November 14, 2016, from 1:00 p.m. to 3:00 p.m. at the New Mexico Department of Transportation, District 3 Auditorium, located at 7500 Pan American Highway, Albuquerque, New Mexico. Please contact Jane Lucero, Airport Development Administration, Aviation Division, New Mexico Department of Transportation, P.O. Box 9830, Albuquerque, New Mexico 87119, Telephone (505) 244-1788, Ext. 9111 to request a copy of the rule. This Notice and the proposed rules, as amended, are also available on NMDOT’s website: http://dot.state.nm.us/content/nmdot/en/public-notices.html

The hearing will be held before Angel Archibache, Airport Development Specialist, Aviation Division, NMDOT. Interested persons may also present their views by written statements submitted on or before November 4, 2016, to New Mexico Department of Transportation, Aviation Division, P.O. Box 9830, Albuquerque, New Mexico 87119.

Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule in an accessible form may contact Jane Lucero at (505) 244-1788, Ext. 9111 at least ten (10) days before the hearing.
EXHIBIT “E”
### Sign-In Sheet

**Public Hearing - Date:** 12/8/2016  
**DOT Training Rooms 1 & 2**

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<td>Terry Brown</td>
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*Exhibit "E*
EXHIBIT "F"
PUBLIC HEARING

PROPOSED AMENDMENTS TO 18.31.6 NMAC

STATE HIGHWAY ACCESS MANAGEMENT REQUIREMENTS

Thursday, December 8, 2016

1:10 p.m.

Department of Transportation

1120 Cerrillos Road, Santa Fe, New Mexico

BEFORE: HEARING OFFICER ANDREW J. GALLEGOS

REPORTED BY: Stephanie Slone, RPR, CSR, CCR No. 505
Bean & Associates, Inc.
Professional Court Reporting Service
201 Third Street Northwest, Suite 1630
Albuquerque, New Mexico 87102

Job No. 6364L (SS)
SANTA FE, NEW MEXICO; THURSDAY, DECEMBER 8, 2016

1:10 p.m.

HEARING OFFICER: My name is Andrew Gallegos. I am the New Mexico Department of Transportation State Maintenance Division's Operations Engineer. I have been appointed by the Cabinet Secretary of NMDOT to serve as the hearing officer for this public hearing. This hearing is scheduled to take place from 1:00 p.m. to 4:00 p.m. today, December 8, 2016. The purpose of this hearing is for NMDOT to receive oral and written public comment on the proposed amendments to NMDOT Rule 18.31.6 NMAC State Highway Access Management Requirements.

The purpose of the amendments are to, one, add provisions that clarify the authority of the New Mexico State Transportation Commission to approve all access control changes in addition to requested breaks in interstate access control rights-of-way; and, two, make certain other technical updates to the rule to bring it into compliance with current standards.

This time, date, and location for this meeting was advertised in the Albuquerque Journal, Las Cruces Sun News, Santa Fe New Mexican, and the
New Mexico Commission of Public Records on October 31, 2016. The notice and rule were also posted on the NMDOT website on the same date.

Please note that there is a sign-in sheet at the entrance of the room. I would request everyone present today to please enter your names and contact information on that log. There is a certified court reporter present at this hearing. The court reporter will accurately record any and all questions asked and comments made regarding the proposed rule amendments and, following this hearing, will prepare a verbatim transcript of the proceedings.

In the event such questions or comments require response from NMDOT following the hearing, NMDOT will issue written responses in an effort to convey clear and consistent information to all hearing attendees and any other interested parties. Accordingly, all will therefore have the benefit of receiving the same information regardless of whether they attended all or a portion of this hearing.

And the court reporter has requested that, when you go up to speak, please submit your name and spell it. You two individuals have already provided it. So we should be good to go there.
The public hearing on the proposed amendments to NMDOT Rule 18.31.6 New Mexico Highway Access Management Requirements is now open. It is currently 1:12 on December 8. So I will open the floor up to you individuals to make comments.

And we have also -- I apologize. We also provided a copy of the rule by the sign-in sheet if you guys need an additional copy. We've given you some information prior to this meeting.

MR. BROWN: Okay. Question.

HEARING OFFICER: Do you want them to come up here?

THE REPORTER: You're fine.

HEARING OFFICER: Okay. You're fine where you are.

MR. BROWN: I'll speak slowly and distinctly because I think slowly and distinctly.

Okay. So I printed out a copy of this proposed document that you e-mailed me, and back in -- I'm thinking it was April or May, there was one distributed for our review and the guy at Bohannan Huston went through and detailed and highlighted every change that he could find.

Has this document changed since April or May?
HEARING OFFICER: It has not. The only thing that changed since --

MR. BROWN: Okay.

HEARING OFFICER: -- since April or May were some formatting and grammatical and/or spelling errors that we found.

MR. BROWN: Okay.

HEARING OFFICER: We did not change any contents.

MR. BROWN: Okay. Second question is -- I notice you have the tables in here, Table 17.B-1 through B-6 for the deceleration lane lengths criteria. There's no Table 18.C-1, which deals with driveway spacing criteria.

Does that mean that you -- did you leave that out on purpose? And does that mean the one that's in the State Access Management Manual now is not going to change?

HEARING OFFICER: I will have to look into that. We are not changing the State Access Management Manual at this point in time. This just changes the rule. So this may refer back to the State Access Management Manual, or we may have erroneously left that table out. I'll have to double-check that. But the intent is not to remove
that table.

MR. BROWN: Okay. From the developers perspective that's one of the biggest issues with the State Access Management Manual is the denial of an access for certain types of uses, specifically commercial uses. They want and often need a full-access driveway, and if they don't meet the spacing requirements -- when I'm advising them, I suggest that, since they don't meet the spacing requirements, they fall back from wanting a full-access driveway to a right-in/right-out/left-in-only.

There is some variety of interpretation of Table 18.C-1 among the different district traffic engineers that a partial access driveway is not well defined in the State Access Management Manual. To me a partial access driveway is anything less than full access. Some of the State's traffic engineers interpret it as a right-in/right-out only. I think that needs to be clarified in the manual itself.

HEARING OFFICER: Okay. We will have discussions with the district traffic engineers and get their take on the situation.

MR. BROWN: Okay.

MR. BOHANNAN: Ron Bohannan.
Since this is just amending this one portion of the manual and you're going through the amendment process, are we able to actually amend the manual itself? Because that's where a lot of the issues that come up are really residing. They're not really in this section. And I'd like to go ahead and get those on the record because I think that's probably, again, the biggest issue that people who use your facilities -- new development, commercial development, including residential development -- always run into the rules.

The biggest issue -- there's two issues. One is the State always hides behind the rules, saying, "Here's the rules. We can't break the rules," whether that's 2 feet outside of the spacing or 200 feet outside of the spacing. I think this one has gone a ways for a variance process, and we would like to do is to see some real-world examples of how a variance process could be used.

We've gone through the variance -- we, Terry Brown and myself, have gone through the variance process, I think, twice, taking approximately a year each time, which in the development side really impacts those projects from a schedule time frame. I think that anything to do
to get to a quicker decision on the variance process
is better because, if we can go through a 30-day or
45-day period where, yes, it will be granted or, no,
it won't be granted, then it allows those users of
the facilities to say, "Okay. Now I'm good. I'm
going to move on with my project" or "No. Let's go
ahead and do the full-blown traffic
studies/analysis" -- a lot of times speed analysis,
queuing analysis -- you know, the whole full gamut.

The other big issue is the actual permits
themselves. There are many instances -- and I'm
guessing probably four to five times a year -- where
we will have clients come to us, and they're
purchasing a piece of property that has an existing
driveway to a State facility that's there. The
business and/or use is not in business at the time.
It's, you know, since ceased or may be a different
use. And we tell people, "Just because you have
that driveway doesn't guarantee that you will have
that driveway."

That is probably the biggest complaint
that we hear of the manual and the entire process is
when people have a driveway, landowners who said,
"Well, I spent good money to put that in, and now
they're going to go sell it," and we have to tell
them, "You still have to go through the process," it really is the hardest thing for us to get to people and for them to digest.

Just because a change of ownership occurs, we think the manual needs to be changed where -- and you have it in this section. You have the notice provisions in this section. But we think that the notice provision, if it's comparable or less, the permit should just be transferred. A full TIS and the full-blown analysis should not be required of that property owner. When you have an increase in use and an increase in density on the land, yes, it needs to be evaluated, but that access point should give some weight to that parcel.

And then there's a lot of times where you'll have a driveway that's built into a State facility, and you'll go to the district office, and there's in record. So we all know records, and we all know that records exist in different stages in different districts. Some have better records than others. I think that the districts should default that, if an access is there, especially if it's being used, it should recognize that it's a valid access point because right now, again, when we start with a new client on a project, it's just like,
"Guys, you will have to go through this process no matter what," and that doesn't bode well for economic development.

We are all engineers in here, and so we understand we have to protect the life -- the public safety, but I think there's a better way to do that than just say, "Sorry. It doesn't work."

Decreasing -- the next one that is probably the hardest, once you've gone through the first part, is if we're trying to get a new one, we have to go and get a common access on properties adjacent to the one that we're looking at. So, for instance, if we have -- I think a good example is the one in Bernalillo, the Valero on Bernalillo.

We started down that path to get an access to that site. The manual says you have to go to the adjoining property owner to get a common access point. That particular case, when we went through the variance process -- we went to the adjoining property owner, and they said, "We don't want to do anything. We have no reason to change." They didn't realize at the time that the DOT was going to change the entire median access. I think it would have been different. But they really said, "No. We don't want to do anything." And that is typically,
I would say, 90 percent of the time the case. When we have to go to an adjoining property owner, they really don't want to participate or do anything to go along with us. So I think there needs to be provisions in there that we need to be able to demonstrate that we've attempted that but, if that doesn't happen, that you can't deny the access to that property.

We have had probably four or five cases where that was the case, where access was not granted. It is an existing access. We were redeveloping the property, and they said, "The only way you're going to redevelop the property is if you have a common access between these two properties."
The property owner says, "No. It's not going to work." After about six or seven months of trying, the project went away. $25 million worth of development, you know, just went away. And that happens a lot.

Those are probably my three biggest problems with the access process right now. The spacing and the technical merits -- we've done a lot where we think most of them are good. We still need probably with this -- we're engineers. We're taught to think and apply the rules. And so engineering
judgment should be allowed to be used in the
ingengineering districts. There's a lot of times if
you don't meet it black and white, it's gone. And
so I don't know how that can get put into the rules,
but I think that needs to be reviewed.

HEARING OFFICER: What I can tell you in
all those areas is that, during the development of
the rule, we did have a lot of discussion on a lot
of those elements. What we tried to do is, like you
said, broaden the variance procedures and give the
applicants much more flexibility in questioning the
decisions and then taking them down the line from
the District Engineer -- well, everything --
initiating at the District Traffic Engineer and then
from there going to the District Engineer and then
coming up to the Cabinet Secretary level.

So I know that we have really thought
about that and also gave the DOT much more time to
make a decision on it. I want to say that
previously we had 30 days. Now I think we added
another 30 days to it just so that we could make it
realistic so we weren't rushing to decisions. But
we understand where you guys are coming from, and we
tried to build an appeal process into this as best
we could.
Our secondary step is definitely -- once we establish what the rule is, our plan was to amend the manual itself after the fact because, now that we've got this done, we want to move on to Step 2. I will have discussions again to see if that is the appropriate way to do this if we need to amend the manual at the same time. I hesitate to do that because the rule is probably the most difficult thing to amend because that becomes a policy.

MR. BOHANNAN: If -- Ron Bohannan again.

If we -- I mean, you've got the rules pretty well drafted out, but it seems like you almost need to take the manual now with the rules and say, "Okay. Does it work together? Do we have any disconnects between the manual and the rules?" so that we don't adopt this and then a year from now -- in our case probably six months from now, next time we have a driveway permit -- we say, "Oh, you've got a disconnect," and so we have to wait around for that again.

The fact that we don't have just, you know, an overwhelming crowd here -- and literally the number of traffic engineers that I can think of probably I can count on two hands that do traffic permits within the state -- I don't think there's
that big of a rush to say, "Let's get the rules
done." And I would vote to say, "Let's do them both
together, and let's do it right once."

And then I think the other thing that you
might want to consider when Tim Parker was the
District 3 Engineer -- and there is provisions in
the manual for corridors, and I think Bernalillo is
another good one is where you say, "Okay. Let's
talk about that corridor and the economic viability
of that corridor." I think the manual and the rules
need to allow for consideration of economic
development. I don't think it should be personally
one particular piece of property unless that piece
of property happens to be a thousand acres and can
bring, you know, 15,000 jobs to the state of
New Mexico.

But I do think that a corridor -- and
specifically the two I'm thinking of is Bernalillo
corridor, the frontage roads along I-25 and
centering around Lomas Boulevard where UNM is
located at their hospital -- those type of corridors
where you have true economic development potential
where you have enough land spacing and mass behind
it that you can actually facilitate a network that
makes sense both for the district or the DOT and the
community at large. That can be -- you know, there
are now communities in Las Cruces, Farmington, some
of the other areas, that are slowly getting to that
point where a corridor approach would make a lot
more sense --

HEARING OFFICER: Okay.

MR. BOHANNAN: -- and specifically when
you look at high-capacity corridors with what you're
considering on doing Bernalillo as well.

Did I miss anything?

MR. BROWN: Let me touch some more on what
Ron talked about with regard -- this is Terry Brown
again -- with regard to granting a variance. You
have a procedure in here or a section on variance,
and I don't see where it defines -- it's on page 10,
paragraph J.

When the 2001 version was adopted, the
variance was granted based on a traffic impact study
that made the case for the variance and was approved
by the District Traffic Engineer. It was somewhat
of an efficient -- well, it was a very efficient
process unless there was an appeal necessary and we
would appeal the traffic engineer's decision, but I
don't see anything in here that defines who has the
authority to grant the initial variance.
For the last 15 years, it's been a letter of approval by the District Traffic Engineer saying, "The variance is hereby granted for X or Y." I don't see that in here. And I also do not see where the appeal procedure is well defined.

MR. BOHANNAN: It's down there.

MR. BROWN: It's right above it?

MR. BOHANNAN: It's No. 2. It's K(2).

MR. BROWN: K?

MR. BOHANNAN: Maybe not.

MR. BROWN: No. It's up here, "Appeals Procedure" (indicating). But I don't -- let me read through it real quick.

MR. BOHANNAN: 2.

MR. BROWN: So it goes to the NMDOT Traffic Technical Support Engineer, and I guess that's here at this office; right?

HEARING OFFICER: General Office, yes.

MR. BROWN: Okay. It seems to make sense to me that an appeal would go to the District Engineer before it came here. So the process would be, if you want to appeal the District Traffic Engineer's decision, then you appeal it to the District Engineer; and then if that's not satisfactory, then you go to the main office, the
Traffic Technical Support Engineer.

HEARING OFFICER: If you look on -- are on you page 10?

MR. BROWN: Uh-huh.

HEARING OFFICER: If you look at I on the appeals, Step 1 is the District Engineer.

MR. BROWN: Okay.

HEARING OFFICER: And then the next step is over at the G.O.

MR. BROWN: Okay. Good deal.

MR. BOHANNAN: So one question is, if we don't like the end of the day, if we go through the entire appeal process -- in most municipalities in zoning issues and other entitlements issues, we can actually go to district court. The problem with going to district court on a technical merit is it's still your facility.

Is there any consideration for allowing a district court appeal process through this?

HEARING OFFICER: There have been discussions. There have not been commitments.

MR. BOHANNAN: Okay. Can you share with us what those pros-and-con discussions are?

HEARING OFFICER: I cannot, no.

MR. BOHANNAN: Okay.
HEARING OFFICER: And the reason I cannot
is I'd hate to misrepresent something that was
stated.

MR. BOHANNAN: Right.

HEARING OFFICER: It wasn't a discussion
really initiated or that I participated in much. I
heard secondhand information. I don't want to
misspeak on anything.

MR. BOHANNAN: Yeah. No. I understand
that, and I appreciate that, having -- I've gone to
district court and served as an expert witness many
times.

I think what I would like the district to
do is consider that, and it would have to be
those -- they're pretty rare instances where it
would really make sense; and that would be, for
instance, if you had a Santa Elena or a Mesa del
Sol -- or Mesa del -- basically had a very large
project that really needed the access to make it
work and there was a huge disagreement --

HEARING OFFICER: Uh-huh.

MR. BOHANNAN: -- you know, that really
the order of magnitude made sense.

HEARING OFFICER: Okay.

MR. BOHANNAN: I don't want to go over to
district court on a driveway spacing for a Lotaburger. You know, that to me doesn't make sense.

But I think it should be considered. I'm not saying it has to be in here. I'm just saying it should be considered because that's one of the things that, when we do get into situations where we are in a very spirited discussion over driveway locations and permits, a lot of our clients are really talking. So what is our legal ramifications? And right now there are none. There is none. So that's just pretty rare that you don't have a legal remedy from that standpoint.

HEARING OFFICER: Okay.

MR. BROWN: Terry Brown again.

A couple years ago I attended, like a seven-session webinar on access management put on by ITE, and at the time they said there was an imminent release of an updated Federal Access Management Manual. Do you have access to that?

HEARING OFFICER: I do not. I can't say that the DOT does or doesn't.

MR. BROWN: Okay.

HEARING OFFICER: Other individuals may have that. I will ask that question.
MR. BROWN: Okay. Because in the process of going through this webinar, they brought up some principles of access management, and as they brought them up -- and I can't think of one specifically right now, but as they brought them up, I went, "Well, that's not how the district traffic engineers are enforcing this Access Management Manual."

My thought was, maybe as part of this process, there should be an effort to train the district traffic engineers in the area of access management to give them a little bit more knowledge of why we're doing this and what we're trying to accomplish because right now what I see happening -- and I'm going to speculate a bit, but I think I'm right -- is they turn to page -- Table 18.C-1 says, "You have to meet that spacing. If you don't meet that spacing, you don't get the access." And this access management webinar I attended was -- that wasn't the way it necessarily should be decided.

MR. BOHANNAN: Ron Bohannan.

If I may kind of expand on that, because there was a lot of times when we get into -- again, the spirited discussions of specifically hard permits, we've run down the road where people say, "Well, that's based on federal guidelines," which we
assume is the federal management. Then you go to
the Federal Highway Administration, and they say,
"No. All we're doing is enforcing the State."
So the real question is -- and it goes
back to, again, looking at the manual itself -- do
the base guidelines need to be visited at this time
to really incorporate and update those. And then I
think it needs to be clear to a lot of the district
traffic engineers -- and it's gotten better -- that
these are really the State of New Mexico's
management policies and design management practices,
not the federal, because a lot of times also in
public hearings people will question, "Well, where
did these come from?" So I think that that should
be something to be looked at.

HEARING OFFICER: Okay. We have quarterly
District Traffic Engineer meetings where, when we
initiated this process, we told them that it was
coming with the commitment that, as soon as we had
finalized the rule, we would sit down with them and
say, "Okay. This is the rule. Let's go through
each and every section." That way everybody is
aware of why things change and what the requirements
within the rule are. We also want to relay with
them our feeling over at the G.O. and how they
should be applied and things like that. But each
and every Traffic Engineer is always going to have
their own opinion and discretion as to what they
believe is policy. That’s kind of why the appeals
process is there, unfortunately.

So we’re going to try to rein in everybody
so that they apply them as consistently as possible.
I cannot commit to complete consistency because
everyone is an individual and, as you guys know, the
turnover in the Traffic Engineer area is pretty
dramatic. I’ve been doing this for two years, and I
think there are three districts that have had at
least three traffic engineers since then. So it is
a commitment that we have that will bring them all
together, go over the rule with the expectation that
that will try to get as much consistency as
possible.

MR. BOHANNAN: Ron Bohannan again.

I was trying to think of the number of
traffic engineers that I’ve dealt with in the last
30 years, and it was well over two dozen that I’ve
dealt with.

HEARING OFFICER: Much more than that, I
guarantee you.

MR. BOHANNAN: Yeah. And, like I said, we
deal primarily with District 3 and District 5 and
District 1. But, yeah, it's been a large number.

I think that's it for me. I don't know if
Terry has got anything else.

MR. BROWN: One other question I have.

I notice on page 13 near the top it talks
about -- well, let me just read it, subparagraph 10
under N -- under O. "Each permittee understands and
agrees as a condition of issuance of any permit that
if the Department determines, that any violation has
or may result in the creation or existence of any
safety or traffic hazard, the Department may
immediately take such action as the Department deems
necessary to correct, eliminate or mitigate such a
hazard, without the need for the completion of any
review process. The permittee shall be responsible
for cost, labor, and material provided by the
Department for such action."

That last sentence, I think, is an
addition to what's stated in the current Access
Management Manual, but you're saying you want to go
in in the current situation and charge the developer
for it?

HEARING OFFICER: I'm sorry. You were
reading No. 10 on the top?
MR. BROWN: Yes.

HEARING OFFICER: Let me read that again.
I'm sorry. Your question again, Terry?

MR. BROWN: You're adding a condition
there that wasn't in the previous Access Management
Manual, I don't think. This says that you're going
to charge the developer for mitigating an access
issue.

HEARING OFFICER: Correct.

Now, this is basically in extreme
circumstances where there is definitely a safety
hazard out there. Say a concrete wall barrier is
built right at the edge of the road and there is no
protection for it. Then we as the DOT will make a
determination that we need to address that
immediately. Those are going to be few and far
between. So if we need to clarify that a little bit
more, then we will certainly do that.

MR. BROWN: Well --

HEARING OFFICER: But this is just when we
see an immediate safety hazard that needs to be
addressed immediately.

MR. BROWN: Okay. I'm just saying that's
going to be a pretty unpopular event if you have to
exercise it. And I'm thinking of one example where
there's a Valero station on the southeast corner of Rio Bravo and Isleta. And the County came in -- or maybe it was the DOT came in and cut off their access with some barriers. And it's one thing to cut off somebody's access, but to charge them for it -- I just think that's going to be very unpopular.

MR. BOHANNAN: Ron Bohannan again.
With that said -- and, actually, that brought up a good point -- I think that one wasn't an immediate and public safety hazard. In fact, when we questioned the District 3 Traffic Engineer at the time to show us the accident reports that occurred for rear-end, they couldn't. They hadn't even pulled the accident reports. And they said, "Well, it's based on observation."

I think when you start affecting people's businesses and livelihood that it needs to be more than just someone's observation. So I think if it's a clear and immediate public safety issue, yes, you have the right to do whatever you need to do. But I think, if there is a perceived safety issue, then I think that the district -- and I don't know if you put it in the rules here or if you put it in your training -- needs to take a little bit more hands-on
approach and say, "Okay. Here's what's happening."

We had to actually in that particular case said, "Look. The owner will actually redo the entire signal," at a cost of about $90,000. And on a Saturday they just went out and put up the delineators and cut off the access points. And that particular store's volume went down by roughly 20 percent in sales on a monthly basis. So it has huge economic impacts.

And so, yes, as engineers, again, we are here to protect the public. That's our No. 1 client. We can't not do that. But in places where it's not an imminent danger, then I think there should be a process and a protocol to follow through to modify a permit access point that wasn't initiated by the applicant.

HEARING OFFICER: Okay. And in looking at the entire list, 1 through 10, of the revocation process, I think that it's outlined pretty clearly the steps that the DOT should take in those circumstances. So No. 10 is the last resort, the tenth step of all of them, but I'll certainly make sure that we do clarify the points you made in that it's got to be an immediate safety hazard. And all of these steps should have been incorporated prior
to the DOT going out and taking any action like that.

MR. BOHANNAN: Right. Thank you.

HEARING OFFICER: Uh-huh.

MR. BROWN: Terry Brown again.

This may be inappropriate in the context of this, but issues related to Table 18.C-1, the driveway spacing standards --

HEARING OFFICER: Uh-huh.

MR. BROWN: -- are those going to be changed or modified? I made a comment about it earlier but I don't know whether --

HEARING OFFICER: Yes.

MR. BROWN: Okay.

HEARING OFFICER: So what we're going to do is look at the manual --

MR. BROWN: Okay.

HEARING OFFICER: -- and see which areas we need to address. We were going to do that after this rule was finalized. Now we'll take a second look at it and see if maybe we need to do it concurrently. But the intention has always been to go and revise that manual. I can't tell you if we're going to revise that table or that section, but I know that we understand that it needs some
work.

MR. BROWN: Okay.

HEARING OFFICER: And I think in our discussions we want to give it a lot more flexibility because of the fact that we're running out of land to develop. We just can't have this ideal spacing anymore, and a lot of what's written in the manual is ideal spacing. We have to have some wiggle room, some gray area, that encourages the development in and around these corridors and roadways. So we want to try to incorporate that while still trying to make sure that we always err on the side of safety.

MR. BROWN: Okay. Then I would like to bring up an issue related to that. It's an issue I've had for a long time. But Table 18.C-1 that regulates the spacing standards for various highways breaks it down basically into two categories, full access or partial access, and it doesn't define partial.

I wonder if there's reason to consider different access spacing standards for right-in-only driveways as opposed to right-in/right-out, as opposed to right-in/right-out/left-in because all of them have different driveway influence areas.
associated with them. And so I'm thinking that a
right-in-only driveway should have less strict
spacing standards than a right-in/right-out, and
that should have less strict spacing standards than
a right-in/right-out/left-in. Of course, the full
access has the most stringent spacing standards.

But that might give developers some
latitude that, if they can't get a full access,
maybe they can meet the requirements for
three-quarters access and then maybe a
right-in/right-out, and maybe some of them want a
right-in-only that is actually closer than a
right-in/right-out.

HEARING OFFICER: I think that --

MR. BROWN: As far as I know, that's not
even in the Federal Access --

HEARING OFFICER: I don't believe it is.

I think it's a whole new area that really -- I mean,
it's probably been discussed, but nothing has been
documented.

MR. BROWN: I have not heard it
discussed --

HEARING OFFICER: Okay.

MR. BROWN: -- anywhere.

HEARING OFFICER: Yeah, I know what you're
talking about in reference to the access. So we'll
certainly look at that when we look at the Access

MR. BROWN: Okay.

HEARING OFFICER: In looking at the
definitions, I think you're right. Full and/or
partial access really isn't defined either in the
rule or in the Access Management Manual. So we'll
have to look at that.

MR. BOHANNAN: Our clients have way too
many attorneys. Just a suggestion.

HEARING OFFICER: I understand.

MR. BOHANNAN: Thank you for allowing us
to comment.

HEARING OFFICER: No problem. My
pleasure. And I apologize there weren't more
individuals. I mean, we reached out to a lot of
people the other times that we attempted to have
this, too, and just haven't got much feedback. I
don't know if it's a product of the economy or what
the situation is, but we just didn't get much
feedback at all.

MR. BOHANNAN: I have my own hypothesis.
I think, again, the number of people that are
actually doing traffic studies and driveway permits
in the state is very limited. In the state -- I
would guess there's probably 20-ish in the state
that do this work; and locally within the
metropolitan area of Albuquerque, there's probably a
half a dozen. They know the rules. They know what
to expect. I'm surprised they're not here.

I've asked a lot of the folks that have
gone through the process to actually draft letters
as well. And if you get to the manual portion,
there will be a lot more people that stand up, I
think. There will be more property owners.

HEARING OFFICER: Okay.

MR. BOHANNAN: It takes a lot of time and
effort. A lot of things to do and not enough time
to do them all.

HEARING OFFICER: Definitely. I do
appreciate you guys' feedback and the correspondence
you gave to us while we're developing this. I do
appreciate that.

MR. BOHANNAN: What happens from here?
What are you doing after this public hearing?

HEARING OFFICER: We will produce a report
for the administration. And really the
administration will then have to consider what we
want to do. I will speak with them on "Do we want
to focus on the rule still, or do we want to wait and look at the manual?" So it really depends on what the decision on that topic is going to be. 
I would say that the next step is to review the comments. If we were just going to focus solely on the rule, we would look at the comments that you guys made, make sure that we're comfortable that those comments -- if they are or aren't incorporated in this rule, once the DOT is comfortable with that, then obviously we would put the final rule together and publish that for revision. Now, what that actual process is, I'm not completely aware.

MR. BROWN: Do you have a timeline for that?

MR. BOHANNAN: No.

HEARING OFFICER: I don't. If we just did the rule, we could probably have that done by the February time frame only because the holidays are this month. We usually get it within six to eight weeks. So I would say if we decided just to proceed with the rule alone, we would have that done by February. And that's just a rough estimate.

MR. BOHANNAN: If you were to open up the manual, how long would you guesstimate that would
take?

HEARING OFFICER: I don't know. I mean, we would have to meet with our committee and go through each of those sections.

MR. BOHANNAN: Right.

HEARING OFFICER: And as part of that, we have to identify that committee outside of the DOT. We know the individuals within the DOT that we want to participate. But how much participation outside of the DOT do we want to bring into those meetings?

I will tell you that it took us almost a year just to go through these pages with just the DOT ourselves to make all these changes. And the changes weren't substantial. We'd have a discussion for two hours and decide that it's fine the way it is. That's just the way it is when you start looking at these policies.

So I don't have a good handle on that. I would say that it probably wouldn't be less than the year to look at the rule.

MR. BOHANNAN: I think, based on what you're saying, my suggestion as the general public is clean up these rules as best you can with the comments that we've had; make sure that you're comfortable with them; adopt the rule; and then
tackle them annually.

HEARING OFFICER: Okay.

MR. BOHANNAN: Then you can actually start educating your traffic engineers.

HEARING OFFICER: Yes. That's the hard part.

MR. BOHANNAN: This current batch of traffic engineers.

HEARING OFFICER: And I must say, as soon as we educate them, they'll move on.

MR. BOHANNAN: Great.

MR. BROWN: One last question.

HEARING OFFICER: Uh-huh. You've got two more hours. You don't have to have a last question.

MR. BROWN: I've got a good joke, then.

HEARING OFFICER: Okay.

MR. BROWN: Could we get a transcription or a copy of that transcription e-mailed to us?

HEARING OFFICER: I don't know. I have to see if that's allowed by the DOT. I don't know. I don't see why they wouldn't. It's public record, but I won't commit to it when I'm not sure.

MR. BROWN: If possible, I would like to review it. And if in reading it I think of something else, I can e-mail you and add to that.
HEARING OFFICER: Well, it will be closed by then.

MR. BOHANNAN: When is the comment period closed? Today?

HEARING OFFICER: At 4:00. We haven't received anything prior to -- we'll probably have a couple more days if we want to leave it open for written that we can add to the record, but oral will just be taken here.

MR. BROWN: Okay.

MR. BOHANNAN: I'm not going to add anything. Are you?

MR. BROWN: No.

MR. BOHANNAN: Okay. Great. So you're going to hang out here for two hours?

HEARING OFFICER: Have to. Last time we did this --

MR. BOHANNAN: He can tell you a joke.

THE REPORTER: Do you want to go off the record?

MR. BROWN: No. That's on the record.

HEARING OFFICER: As soon as they close the door, we can go off the record.

MR. BOHANNAN: We can't go into executive session?
HEARING OFFICER: Thank you, guys. I appreciate it.

MR. BOHANNAN: Thank you.

MR. BROWN: Okay. Thank you, Andrew.

HEARING OFFICER: You guys have my card?

MR. BROWN: I have it.

HEARING OFFICER: You have it?

MR. BROWN: Unless it's changed recently.

HEARING OFFICER: It has not.

MR. BOHANNAN: So you guys can tell jokes amongst yourselves. Bye.

MR. BROWN: Thank you.

HEARING OFFICER: Thank you.

Until someone else comes in...

(Recess, 1:53 p.m. to 2:02 p.m.)

MR. BROWN: Terry Brown again.

One final thing I wanted to bring up was the timeliness of reviews under this document, under this State Access Management Manual.

We are in a situation now where there may be an appeal, but we're having trouble getting to the appeal point because of a lack of response from a District Traffic Engineer. And so what I was going to suggest is to incorporate or consider incorporating into this document some kind of time
limitation on reviews of various traffic impact
studies and driveway permit applications and plan
sets, traffic control plan sets, and so on. And it
could be different for different sizes of
developments.

We have a few projects right now where we
have been waiting on a letter of approval from the
DOT for a year. In another instance we've been
waiting on a letter of comments for several months.
And I understand that traffic engineers in certain
districts are very busy, but the private community
needs some kind of efficiency in the response of
those traffic engineers and permitting agents.

So we thought it might be a good idea to
consider language that would incorporate it and say
"If you've got this type of development and you turn
in a traffic study, the District Traffic Engineer
has X number of weeks to respond." Is that already
in there?

HEARING OFFICER: I thought it was, but I
cannot locate it. I don't know it backwards and
forwards, but we do have time frames for the DOT in
their process. I will have to double-check to see
what those reviews are, but I am confident that we
put something like that in there.
If you will review it, Terry --

MR. BROWN: Uh-huh.

HEARING OFFICER: -- and if you want to
send something in writing later on, if you believe
they're too long or too short -- which probably you
won't believe they're too short -- let me know, and
we will do that. I will say that we did increase
the amount of time that DOT personnel had to review
and make decisions because of our workload and the
resources.

MR. BROWN: Okay.

HEARING OFFICER: I want to say it's going
to range from 30 to 90 days in some areas, depending
on what level it is.

MR. BROWN: And I think that's reasonable.
Maybe for some of the smaller studies that are less
than 50 pages long, maybe a little bit less; but we
need to give the District Traffic Engineers a
sufficient amount of time to review, but when it
gets to be several months, that's unreasonably long.

HEARING OFFICER: I would agree. I want
to say that I know for a fact that nothing exceeds
90 days in here.

MR. BROWN: Okay.

HEARING OFFICER: We try to keep it
between 30 and 90.

MR. BROWN: Well, I did not see any
language -- I don't remember seeing any language to
that effect.

HEARING OFFICER: Well, on page 9, G,
No. 2, "Upon acceptance of the application permit
and supplemental information, the Department shall
use 18.31.6 NMAC, the State Access Management
Manual, and other applicable state statutes for
evaluating and acting on the application. Access
request that break existing access control lines or
that are requested on a controlled-access facility
shall be acted on by the Access Control Review
Committee according to the procedures in
18.31.6.19 NMAC. The application will normally be
processed within 45 days."

MR. BROWN: Okay. Now, that's the
application.

HEARING OFFICER: So that's one section.

MR. BROWN: Right.

HEARING OFFICER: So, yes.

MR. BROWN: Right.

HEARING OFFICER: So there are different
time frames in here for different things.

MR. BROWN: Okay. Well, I'll take a
closer look at it.

HEARING OFFICER: I will do the same. If
I don't see those deadlines, then I'll make sure
that I have a discussion with individuals at the DOT
to see what the appropriate time frames are.

MR. BROWN: Okay.

HEARING OFFICER: But I do know that we
spent a considerable amount of time in determining
the turnaround for a lot of these things. So it
should be in there. If it's not, please let me
know.

MR. BROWN: Okay.

HEARING OFFICER: But I would absolutely
agree with you that there's no reason why something
can't be done within 90 days; and I wish I could
give you a mechanism to push it along, but I don't
know if one exists.

MR. BROWN: There is none, as far as I
know. I've gone to supervisors who were unable to
make any changes, to effect any changes.

HEARING OFFICER: The District Engineer
should have that ability but --

MR. BROWN: Well, I went to better than
that. I went to Tony Abel one time, and he finally
told me -- after I went to him the third time, he
said, "Terry, I've talked to him. I don't know what
else I can do." And if Tony can't do it, I don't
know who can. Okay.

HEARING OFFICER: Thank you, Terry.

MR. BROWN: Thank you. I will respond
with an e-mail in a few days.

HEARING OFFICER: Thank you. I appreciate
it.

MR. BROWN: Okay.

(Recess, 2:08 p.m. to 4:00 p.m.)

HEARING OFFICER: It is now 4:00 on
December 8, and the public hearing for the Proposed
Amendments to NMDOT Rule 18.31.6 NMAC, State Highway
Access Management Requirements, is now closed.
Thank you.

(The proceedings concluded at 4:00 p.m.)
STATE OF NEW MEXICO
COUNTY OF SANTA FE

REPORTER'S CERTIFICATE

I, STEPHANIE SLONE, New Mexico Certified
Shorthand Reporter No. 505, do hereby certify that I
did report in stenographic shorthand the proceedings
set forth herein and that the foregoing is a true
and correct transcription of said proceedings.

I further certify that I am neither
employed by nor related to any of the parties in
this proceeding and that I have no interest
whatsoever in the final disposition of this
proceeding in any court.

Stephanie Slone
BEAN & ASSOCIATES, INC.
New Mexico CCR No. 505
License expires: 12/31/17

(6364L) SS
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EXHIBIT "G"
18.31.6.1 ISSUING AGENCY: New Mexico Department of Transportation (Department), 1120 Cerrillos Road, Post Office Box 1149, Santa Fe, New Mexico 87504-1149.
[18.31.6.1 NMAC - Rp, 18 NMAC 31.6.1, 6/15/2017]

18.31.6.2 SCOPE: New Mexico Department of Transportation Districts and Divisions, all other state agencies, local governments, land owners, developers, and general public.
[18.31.6.2 NMAC - Rp, 18 NMAC 31.6.2, 6/15/2017]

18.31.6.3 STATUTORY AUTHORITY:
A. State Highway Commission (now State Transportation Commission): The basic enabling legislation for the management of access on state highways is NMSA 1978, Section 67-11-2, which states: "The State Highway Commission (now State Transportation Commission) is authorized and directed to do those things essential to plan, acquire by reasonable purchase or condemnation and construct a section or a part of a state or federally designated highway as a freeway or controlled-access highway or to make any existing state or federally designated highway a freeway or a controlled-access highway."

B. New Mexico Department of Transportation: Pursuant to NMSA 1978, Section 67-3-6, the New Mexico Department of Transportation shall exercise the power, authority, and duty granted to the State Transportation Commission. Therefore, the Department may prescribe rules and regulations for providing access to state highways pursuant to NMSA 1978, Sections 67-11-1 through Sections 67-11-10. In addition, the following State Transportation Commission policy and Department Administrative Directive supplement New Mexico State Statutes and shall be followed when determining the type and extent of access to be provided along state highways.
   (1) State Transportation Commission Policy CP 65, Interstate Access Control
   (2) New Mexico Department of Transportation Administrative Directive AD 222, Highway Access Control
[18.31.6.3 NMAC - Rp, 18 NMAC 31.6.3, 6/15/2017]

18.31.6.4 DURATION: Permanent.
[18.31.6.4 NMAC - Rp, 18 NMAC 31.6.4, 6/15/2017]

18.31.6.5 EFFECTIVE DATE: October 15, 2001 unless a later date is cited in the history note at the end of a section.
[18.31.6.5 NMAC - Rp, 18 NMAC 31.6.5, 6/15/2017]

18.31.6.6 OBJECTIVE:
A. By 18.31.6 NMAC, the Department establishes access management requirements which will protect the functional integrity of the state highway system and the public and private investment in that system. Rule 18.31.6 NMAC, and its associated State Access Management Manual which is attached to and filed concurrently with this rule, provides procedures and standards to preserve and protect the public health, safety and welfare, to maintain smooth traffic flow, and to protect the functional level of state highways while considering state, regional, local, and private transportation needs and interests. The access management requirements also consider other Department regulations, policies and procedures related to highway rights-of-way such as drainage, archeology, hazardous materials and other environmental aspects.

B. Through the administration of 18.31.6 NMAC, it is the intent of the Department to work with property owners and local governments to provide reasonable access to the state highway system. However, the access rights of an owner of property abutting a state highway shall be held subordinate to the public's right and interest in a safe and efficient highway.

C. All owners of property abutting a public road have a right of reasonable access to the general system of streets and highways in the State, but not to a particular means of access. The right of access is subject to regulation for the purpose of protecting the health, safety and welfare of the traveling public.

D. Rule 18.31.6 NMAC addresses the design and location of driveways, medians, median openings, intersections, traffic signals, interchanges and other points of access to public highways under the jurisdiction of the State Transportation Commission. It is based upon the authority granted to the New Mexico Department of
Transportation.

E. As of June 9, 1989, no person shall construct or modify any permanent or temporary access providing direct vehicular movement to or from any state highway from or to property in close proximity to or adjoining a state highway without an access permit issued by the New Mexico Department of Transportation. Within those jurisdictions where the local governments and authorities have returned issuing authority to the Department, the Department has sole authority to issue state highway access permits. However, the Department will delegate the authority under 18.31.6 NMAC to other public agencies provided that these agencies minimally adopt the Rule and as the Department determines in its discretion as delegable.

F. Access permits shall be issued only when the permit application is found to be in compliance with 18.31.6 NMAC. The Department, or other issuing authority approved by the Department, is authorized to impose terms and conditions as necessary and convenient to meet the requirements of 18.31.6 NMAC.

G. Direct access from a subdivision to a state highway shall be permitted only if the proposed access meets the purposes and requirements of 18.31.6 NMAC. All new subdivision of property shall provide access consistent with the requirements of 18.31.6 NMAC. The provisions of 18.31.6 NMAC shall not be deemed to deny reasonable access to the general street system. The issuance of any permit, agreement, plat, subdivision, plan or correspondence shall not abrogate or limit the regulatory powers of the Department or issuing authority in the protection of the public's health, safety and welfare.

[18.31.6.6 NMAC - Rp, 18 NMAC 31.6.6, 6/15/2017]

18.31.6.7 DEFINITIONS:

A. Acceleration Lane-- A speed-change lane, including full-width auxiliary lane and tapered area, for the purpose of enabling a vehicle entering a roadway to increase its speed to a rate at which it can safely merge with through traffic.

B. Access-- Any driveway or other point of access such as a street, road, or highway that connects to the general street system. Where two public roadways intersect, the secondary roadway shall be considered the access.

C. Access Category-- The definition by which access to a state highway is controlled according to the categories described in 18.31.6.10 NMAC.

D. Access Control-- The regulated limitation of access to and from a highway facility including full control of access, partial control of access, and driveway regulations.

E. Applicant-- The owner of property or the representative of an owner applying for an access permit.

F. Arterial Roadway-- The primary function of an arterial roadway is to provide mobility for through traffic movements. Arterial roadways provide for land access as a secondary function.

G. At-Grade Intersection-- A crossing of two or more highway facilities at the same elevation where through traffic movements on one or more of the highways cross and where turning movements between the highway facilities may be allowed.

H. Auxiliary Lane-- An additional lane adjoining the traveled way which may be used for parking, speed change, turning, storage for turning vehicles, weaving, truck climbing, and other purposes supplementary to through traffic movement.

I. Average Daily Traffic (ADT)-- The average traffic volume per day, over a seven-day week, for a unique segment of roadway in both directions of travel on a two-way facility and in one direction of travel on a one-way facility.

J. Average Weekday Traffic (AWDT)-- The average traffic volume for a unique segment of roadway on a typical weekday (Monday through Friday) in both directions of travel on a two-way facility and in one direction of travel on a one-way facility.

K. Average Weekend Traffic (AWET)-- The average traffic volume for a unique segment of roadway over the weekend period (Saturday and Sunday) in both directions of travel on a two-way facility and in one direction of travel on a one-way facility.

L. Developed Area/Business District-- A developed area/business district occurs along a highway when within 300 feet along such highway there are buildings in use for business or industrial purposes (including but not limited to hotels, banks or office buildings, railroad stations and public buildings) which occupy at least fifty percent of the frontage on one side or fifty percent of the frontage collectively on both sides of the highway.

M. Capacity-- The maximum hourly rate at which persons or vehicles can reasonably be expected to traverse a point or uniform section of a lane or roadway under prevailing roadway, traffic, and control conditions.

N. Change of Use-- Occurs when a change in the use of the property including land, structures or
facilities, or an expansion of the size of the structures or facilities, is expected to result in an increase in the trip generation of the property greater than 25 percent (either peak hour or daily) and greater than 100 vehicles per day more than the existing use.

**O. Channelized Intersection**— An "at grade" intersection with painted islands, raised islands, or other devices for directing traffic along definite paths.

**P. Collector Street**— Collector streets connect developed areas with the arterial street system, balancing the need to provide traffic movement with the need to provide property access.

**Q. Commission**— The New Mexico State Transportation Commission or its predecessor.

**R. Control of Access**— The condition in which the right of owners or occupants of land abutting or adjacent to a roadway is controlled by public authority.

**S. Controlled-Access Highway**— Includes highways, streets or roadways to which owners or occupants of abutting lands, and other persons, have no legal right of access except as determined by the public authority having jurisdiction over the highway, street or roadway.

**T. Corner Clearance**— At an intersecting street or highway, the dimension measured along the edge of the traveled way between the centerline of the intersecting street and the centerlines of the first adjacent access points on the approach and departure sides of the intersection.

**U. Cross Street**— The lower function roadway that crosses a higher function facility, also referred to as Minor Street.

**V. Curb Cut**— An opening along a state highway with raised curb or curb-and-gutter to provide for driveway access using drivepad construction. Also referred to as Driveway Cut.

**W. Curb Return**— The access radius for an intersection or driveway opening, also referred to as Radius Return.

**X. Curb Return Construction**— As applied to a driveway opening, means that proper access radii are used in the design and construction of an access facility.

**Y. Deceleration Lane**— A speed-change lane, including full-width auxiliary lane and tapered areas, for the purpose of enabling a vehicle to slow to a safe turning speed when exiting a roadway.

**Z. Department**— New Mexico Department of Transportation and all of its components, including but not limited to: the District Engineers, and the Department Divisions.

**AA. Design Vehicle**— A selected motor vehicle with the weight, dimensions, and operating characteristics used to establish highway design controls.

**AB. Developer**— A person or persons representing a proposed land development project.

**AC. Divided Highway**— A highway with separated roadways for traffic traveling in opposite directions. Separation may be provided by depressed dividing strips, raised medians, traffic islands, other physical separations, standard pavement markings, or other traffic control devices.

**AD. Drivepad Construction**— As applied to a driveway or curb cut, means that access radii are not used in the design and construction of an access facility.

**AE. Driveway**— For the purposes of Department access management requirements, a driveway is a public or private access along a state highway serving a limited area where traffic signal control is not required. Excludes public streets, roads, highways, and other signalized intersections.

**AF. Driveway Angle**— The angle of 90 degrees or less between the driveway centerline and the edge of the traveled way.

**AG. Driveway Cut**— An opening along a state highway with raised curb or curb-and-gutter to provide for driveway access using drivepad construction. Also referred to as Curb Cut.

**AH. Driveway Throat Width**— The narrowest width of a driveway measured parallel with the edge of the traveled way exclusive of radii, ramps or tapers.

**AI. Edge Clearance**— The distance measured along the edge of the traveled way between the frontage property line and the point of tangency of the nearest radius return for an access.

**AJ. Egress**— To exit an abutting property or intersecting roadway to gain access to a state highway.

**AK. Freeway**— A multi-lane divided highway having a minimum of two lanes in each travel direction, with access provided by grade-separated interchanges.

**AL. Frontage**— The distance along the highway right-of-way line of a single property tract or roadside development area between the limits of the property.

**AM. Frontage Property Line**— A line, perpendicular to the highway centerline, at each end of the frontage, extending from the right-of-way line to the edge of traveled way.

**AN. Full Control of Access**— That part of access control where preference is given to through traffic by providing access connections only with selected public roads, and by prohibiting at-grade crossings and direct
private driveway connections. Access control is accomplished by legally obtaining right-of-way from the abutting property owners or by the use of frontage roads or other means to provide access to abutting properties.

AO. **Functional Area of an Intersection**-- The areas of both upstream and downstream of an intersection where additional access points should not be allowed. The upstream area consists of length. The downstream area consists of stopping sight distance. Right-turn conflict overlap should also be considered when determining the downstream area.

AP. **Functional Classification**-- The grouping of highways by the character of service they provide to through traffic movements (mobility) versus access to abutting properties (land accessibility).

AQ. **General-Purpose Lanes**-- The continuous through lanes on a highway, excluding auxiliary lanes. Sometimes referred to as mainline lanes.

AR. **General Street System**-- The interconnecting network of city streets, county roads, and state highways.

AS. **Grade Separation**-- A crossing of two transportation facilities, such as two roadways or a roadway and a railroad, at different elevations where access is not provided from either facility at their intersection.

AT. **Grade or Gradient**-- The rate (or percent) of change in slope. For highway facilities, it is measured along the centerline of the roadway or access facility.

AU. **Highway**-- The entire width between the right-of-way lines of publicly maintained traveled way when any part thereof is open to the public for purposes of vehicular travel, or the entire width of any traveled way declared to be a public highway by law. It may include bridges, culverts, sluices, drains, ditches, waterways, embankments, walls, trees, shrubs and fences.

AV. **Highway Improvement Project**-- Includes any project to improve a roadway segment or intersection facility to protect and maintain the general health, safety and welfare of the traveling public, typically conducted by the public entity having jurisdiction over the facility being improved. Highway improvement projects are generally included in the public entity's transportation improvement program, whether the program is local, regional or statewide.

AW. **Horizontal Alignment**-- The combination of curved and tangent sections of a highway in the horizontal plane.

AX. **Ingress**-- To leave the highway and enter into an abutting property or intersecting roadway.

AY. **Intersection**-- Public street or other access serving a large area or a major traffic generator(s) where traffic signal control may be provided.

AZ. **Interstate Highway**-- Represents the highest functional classification of a roadway in a highway network. Interstates are multi-lane divided highways having a minimum of two lanes in each travel direction, with access provided by grade-separated interchanges.

BA. **km/h**-- A rate of speed measured in kilometers traveled per hour.

BB. **Land Development Project**-- Includes any project to develop or redevelop private or public property adjacent or in close proximity to a state highway where direct or indirect access to the property is required from the state highway. Land development projects may be conducted by either private or public entities.

BC. **Lane**-- The portion of a roadway for the movement of a single line of vehicles, not including the gutter or the shoulder of the roadway.

BD. **Level of Service (LOS)**-- A qualitative measure describing traffic operational conditions within a traffic stream based on factors such as speed, travel time, freedom to maneuver, traffic interruptions, comfort and convenience, and safety. Level of service designations range from A (best) to F (worst).

BE. **Local Governments and Authorities**-- Every county, municipal, and other local board or body having authority to enact laws relating to traffic under the constitution and laws of the State of New Mexico.

BF. **Local Road**-- Local roads primarily provide direct access to abutting land and to roads of higher functional classification. Mobility is discouraged, especially in urban areas.

BG. **May**-- A permissive condition where the condition is suggested but not mandatory.


BL. **Median**-- That portion of a divided highway separating traffic traveling in opposite directions.

BJ. **Minor Street**-- The lower function roadway that crosses a higher function facility, also referred to as Cross Street.

BK. **mph**-- A rate of speed measured in miles traveled per hour.

BL. **NMDOT**-- The New Mexico Department of Transportation.

BM. **Nominal Control of Access**-- That part of access control that may be applied when full or partial control of access has not been obtained by a highway authority. A means of access control that is consistent with the functional classification of a state highway facility, and that is sufficient to maintain a safe and efficient
transportation system.

BN. Non-Access Controlled Highway-- Includes state highways where roadside access is permitted and access control has not been established by legally obtaining right-of-way from the abutting property owners or by the use of frontage roads or other means to provide access to abutting properties.

BO. Non-Traversable Median-- A median which, by its design, physically discourages or prevents vehicles from crossing it except at designated openings which are designed for turning or crossing movements.

BP. Partial Control of Access-- That part of access control where preference is given to through traffic to a degree that some at-grade crossings may be permitted. Access control is accomplished by legally obtaining right-of-way from the abutting property owners or by the use of frontage roads or other means to provide access to abutting properties.

BQ. Permittee-- The individual(s) responsible for fulfilling the terms and conditions of the access permit as imposed by the Department.

BR. Property Owner-- The person or persons holding the recorded title to property abutting a state highway, and other persons holding a recorded interest in such property, that includes a right to reasonable access from the state highway system.

BS. Radius Return-- The access radius for an intersection or driveway opening, also referred to as Curb Return.

BT. Recovery Area-- An unobstructed area provided beyond the edge of a traveled way for the recovery of errant vehicles.

BU. Right-In/Right-Out Driveway (RI/RO)-- A driveway located along a roadway prohibiting left-turn access into or out of the driveway.

BV. Right-Turn Conflict Overlap-- A conflict that occurs when a driver in a through travel lane must monitor more than one access connection at a time.

BW. Setback-- The lateral distance between the highway right-of-way line and any development structure, obstacle or parking area along the highway roadside.

BX. Shall-- A mandatory condition where the requirements must be met.

BY. Should-- An advisory condition where the condition is recommended but not mandatory.

BZ. Sight Distance-- The length of roadway visible to the driver of a vehicle, as further defined in the AASHTO document, A Policy on Geometric Design of Highways and Streets, latest edition.

CA. Signal Progression-- The timing of consecutive signalized intersections to provide for the progressive movement of traffic at a planned rate of speed.

CB. Speed-Change Lane-- A separate lane for the purpose of enabling a vehicle entering or leaving a roadway to increase or decrease its speed to a rate at which it can more safely merge into or exit from through traffic.

CC. State Highway-- Any public highway that has been designated as a state highway by either the New Mexico State Legislature or the State Transportation Commission.

CD. Stopping Sight Distance-- The distance required by a driver of a vehicle to bring the vehicle to a stop after an object on the roadway becomes visible.

CE. Storage Lane Length-- The length provided within a deceleration lane for the storage of queued vehicles, typically based on the vehicle queue expected during peak travel periods.

CF. Subdivide-- To divide land into two or more smaller lots, tracts or parcels of land.

CG. Subdivision-- A tract of land which has been subdivided in accordance with the laws of the state usually with appropriate streets, dedications and other facilities for the development or sale of industrial, commercial or residential land.

CH. Traveled Way-- That portion of a roadway containing the travel lanes and speed-change lanes, exclusive of pavement provided for shoulders.

CI. Traversable Median-- A median which, by its design, does not physically discourage or prevent vehicles from entering upon or crossing it.

CJ. Trip-- A one way vehicle movement from one location to another.

CK. Trip Assignment-- Refers to the addition of trips generated by a proposed development to a transportation network. Involves the specific routing of traffic on the street system.

CL. Trip Distribution-- Refers to the geographic origin or destination of trips related to a project. Involves the general allocation of trips generated by a development over the transportation network.

CM. Trip Generation-- An estimate of the number of trips expected to be generated by specific type of land use.

CN. Undivided Roadway-- A highway without physical separation between traffic traveling in
opposite directions.

**CO. Vertical Alignment**—The vertical profile of a highway, intersection approach or driveway approach, typically measured along its centerline.

[18.31.6.7 NMAC - Rp, 18 NMAC 31.6.7, 6/15/2017]

**18.31.6.8 REFERENCES:** The reference documents listed in 18.31.6.9 NMAC are supplementary and should be used when additional detail is required to address issues that arise during the access permitting and design process. The most recent edition of each technical reference shall be used.

[18.31.6.8 NMAC - Rp, 18 NMAC 31.6.8, 6/15/2017]

**18.31.6.9 REFERENCE LIST:**

A. New Mexico State Statutes and Traffic Laws, as amended.

B. The current editions, as amended, of the following NMDOT manuals, standards, and policies:
   (1) State Access Management Manual
   (2) Standard Specifications for Road and Bridge Construction
   (3) State Transportation Commission Policies
   (4) Standard Drawing Serials and Designated Drawings
   (6) New Mexico State Traffic Monitoring Standards
   (7) Railroads and Utilities Manual
   (8) Materials Manual
   (9) Construction Manual
   (10) Location Study Procedures, A Guidebook for Alignment and Corridor Studies


F. Trip Generation, Institute of Transportation Engineers, latest edition.


H. Manual of Transportation Engineering Studies, Institute of Transportation Engineers.


L. Access Management Guidelines for Activity Centers, NCHRP 348.


N. Traffic Access and Impact Studies for Site Development, Institute of Transportation Engineers.


P. Transportation and Land Development, Institute of Transportation Engineers.


R. Web Sites (note: web addresses may change without notice)
   (1) New Mexico Department of Transportation: dot.state.nm.us
   (2) Federal Highway Administration: www.fhwa.dot.gov
   (3) Institute of Transportation Engineers: www.ite.org
   (4) American Association of State Highway and Transportation Officials: www.transportation.org
   (5) Transportation Research Board: www.nas.edu/trb

[18.31.6.9 NMAC - Rp, 18 NMAC 31.6.9, xx/xx/2017]
18.31.6.10  ACCESS CATEGORIZATION SYSTEM: The regulation and management of vehicular access to and from the New Mexico state highway system shall be defined by an access categorization system. The access categorization system for state highways is described in Section 10 of the *State Access Management Manual*. The access categorization system shall be based on the Functional Classified System for New Mexico roadways, which consists of interstates and freeways (INTS), principal arterials (PRAR), minor arterials (MNAR), major collectors (MJCL), minor collectors (MNCL), collectors (COLL), local roads (LOC), and other special road types. The functional classified system shall be further defined as urban and rural routes based on the location of a highway with respect to population centers. The current classification of a highway shall be obtained from the Department and shall be used to determine the access category applicable to the highway under consideration. Access requirements for each access category are described in the *State Access Management Manual*.
[18.31.6.10 NMAC - Rp, 18 NMAC 31.6.10, 6/15/2017]

18.31.6.11  ACCESS MANAGEMENT PLANS: The Department may develop an access management plan for a designated portion of state highway. An access management plan provides the Department, and local authority, with a comprehensive roadway access design plan for a designated state highway segment or corridor for the purpose of bringing that portion of highway into conformance with its access category and its functional needs to the extent feasible given existing conditions. Access management plans should be developed as described in Section 11 of the *State Access Management Manual*.

A. Access management plans for state highways are developed by the Department in cooperation with the appropriate local authorities through a memorandum of understanding or a joint powers agreement. Access management plans shall be adopted by the Department to become effective. The adoption of a plan shall be in the form of a formal written agreement prepared in accordance with 18.31.6.19 NMAC, Access Control Review Procedures. When applicable, concurrence of the local authority should also be obtained in written form.

B. After an access management plan is adopted, modifications to the plan shall require Department approval. Where an access management plan is in effect, all action taken in regard to access shall be in conformance with the plan and 18.31.6 NMAC unless the Department approves exceptions to the plan in writing.
[18.31.6.11 NMAC - Rp, 18 NMAC 31.6.11, 6/15/2017]

18.31.6.12  INTERCHANGE ACCESS MANAGEMENT PLANS: An interchange access management plan shall be required for any new interchange or significant modification to an existing interchange. The interchange access management plan shall satisfy the requirements of 18.31.6.19 NMAC, Access Control Review Procedures, and applicable State Transportation Commission policies and Department administrative directives. The interchange and the management plan shall receive the approval of the Deputy Secretary for Highway Operations. If located on a national or interstate highway facility, approval shall also be obtained from the Federal Highway Administration. Section 12 of the *State Access Management Manual* should be used to guide the development of interchange access management plans.
[18.31.6.12 NMAC - Rp, 18 NMAC 31.6.12, 6/15/2017]

18.31.6.13  ACCESS CATEGORY STANDARDS:

A. Purpose: Whereas the requirements for access requests along state highways are described in multiple sections of 18.31.6 NMAC, summary information for each access category is provided in Section 13 of the *State Access Management Manual* to assist users in locating and determining the requirements for a proposed access along a state highway. Practitioners shall reference specific sections of 18.31.6 NMAC when determining applicable requirements for their access request. The summary information contained in Section 13 of the manual is provided solely to ease use of the access management manual, with the exception below regarding interstate highways.

B. Interstate Highways: The design of interstate highway facilities, requests for modifications to existing interstate access points, and new interstate access proposals shall satisfy the requirements of all pertinent sections of the Code of Federal Regulations (CFR) and all interstate highway policies adopted by the Federal Highway Administration. All decisions regarding interstate highway facilities shall require the approval of the Federal Highway Administration and the New Mexico Department of Transportation.
[18.31.6.13 NMAC - Rp, 18 NMAC 31.6.13, 6/15/2017]

18.31.6.14  PERMITTING PROCESS:

A. Purpose: This section describes the application procedures for submitting an access permit request to the Department, and the administrative procedures used by the Department to approve or deny access permit requests on state highways.
B. Types of Access: Following is a list of the types of access that may occur along the state highway system. Refer to Section 14 of the State Access Management Manual for a description of each access type.

(1) Existing Lawful Access, Modification or Transfer
(2) New Private Access (Individual Use)
(3) New Subdivision Access
(4) New Public Access
(5) New Commercial Access
(6) Temporary Construction Access
(7) Temporary Access
(8) Emergency Access
(9) Field Access
(10) Access Breaks in Established Access Control Lines
(11) Illegal Access

C. Access Permit Applications: Applications for access permits shall be made by the property owner; the property owner's authorized representative; or, the local governmental agency requesting access from a state highway. Applications are required for all new access types, for modification or transfer of existing lawful access permits, and for upgrading an existing illegal access to a lawful access.

(1) Changes in Property Use: Where additional traffic is projected due to expansion or redevelopment of a property, the property owner shall contact the Department to determine if a new permit application and modifications to existing access points will be required. If the Department determines that the increased traffic generated by the property does not require modifications to the existing permitted access, according to the procedures of 18.31.6.16 NMAC, a new permit application will not be required. Failure to contact the Department to determine the need for access modifications or to apply for such modifications prior to initiation of property improvements, land use changes or traffic flow alteration actions, may result in notification to the property owner of intent to revoke or modify the existing permit and closure of the access to the property. (Also refer to Subsection O of 18.31.6.14 NMAC.)

(2) Permit Application Form: All applications shall be made on the approved Department permit application form, "Application for Permit to Construct an Access or Median Opening on Public Right-of-Way."

(3) Department District Offices: Persons wishing to submit an access permit application form should contact the appropriate Department District Office to obtain application forms. District offices are located in Deming, Roswell, Albuquerque, Las Vegas, Santa Fe, and Milan. The application form can also be found in the appendix of the State Access Management Manual, and on the Departments external web site, dot.state.nm.us/content/dam/ndot/Infrastructure/Access_management_Manual.pdf.

D. Application Submitting Requirements:

(1) Completed access permit forms shall be submitted to the appropriate District office with proof of ownership of the property to which access is requested. A plan or sketch of the property shall be attached to the permit application showing the length of the property frontage, the distance from the edge of the traveled roadway to the property line, edge clearances, corner clearances, the distance from the referenced mile marker to the centerline of the proposed driveway(s), and the location of any access drives along the state highway across from the proposed site. A traffic engineering evaluation shall be conducted for all access permit requests according to the requirements of 18.31.6.15 NMAC and 18.31.6.16 NMAC, with an exception. The traffic engineering evaluation may be waived for individual use access requests (see Subsection E, Paragraph 1 of 18.31.6.14 NMAC). In such cases, the Department may conduct the evaluation required to determine if an individual use access will be permitted or denied. A construction traffic control plan shall also be submitted with the application for review and approval by the District Traffic Engineer. The Department may require additional information relative to the evaluation of a permit application as further described in Section 14 of the State Access Management Manual.

(2) A permit application may be deemed incomplete by the Department when necessary and relevant information is missing, or when there is no written evidence of the ownership of the property surface rights provided in the application. If the application is deemed incomplete, the Department shall notify the applicant within fifteen (15) working days of receipt of the application and shall indicate the reason or reasons for refusal. The Department review period begins with the acceptance of an application.

E. Access Permit Requests from Private Entities:

(1) Individual Use: Requests for a new private access shall be made on the Department access permit application. Application requirements for individual use permits shall include a platted survey of the property, proof of ownership of the property, and details regarding the location of the proposed access and the proposed development. A traffic engineering evaluation typically shall not be required. The Department may conduct the

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evaluation required to determine if an individual use access will be permitted or denied.

(2) Subdivisions and Commercial Developments: Requests for new subdivision access, new commercial access or for modification to an existing lawful access for other than individual use shall be made on the access permit application. The applicant shall be required to satisfy all pertinent requirements of 18.31.6 NMAC.

F. Access Permit Requests from Governmental Entities:

(1) Local Governments: Requests by local governmental agencies for new access or for the reconstruction of existing access to the state highway shall be administered by the Department. The local governmental agency shall be considered the applicant. The Department shall work with local governmental agencies realizing that the access will serve multiple property owners. Access to subdivisions and other developments shall not be considered public access until the access is constructed and accepted as a local public roadway.

(a) Local governmental agencies shall provide notice of all developments that will directly or indirectly impact the state highway, and shall request Department participation in the administration of an access permit if it is determined by the Department that an access facility will directly or indirectly impact the operation and function of a state highway. The local governmental agencies may also require subdividers to provide additional notice of all proposed developments that will directly or indirectly impact the state highway.

(b) Where a private development accessing the roadway of an appropriate local authority necessitates access improvements where the local roadway connects to a state highway, the permittee shall be the local jurisdiction.

(c) Local governmental agencies may be required to submit a traffic engineering evaluation with a permit application. The traffic engineering evaluation requirement shall be determined according to the procedures described in 18.31.6.15 NMAC and 18.31.6.16 NMAC. Local governmental agencies may require developers to assist in preparing and providing this information for submission to the State.

(2) Federal Government: Requests for access from a state highway by the General Services Administration (GSA), United States Postal Service (USPS), Department of Defense (DOD), Department of Energy (DOE), or other divisions of the federal government shall be administered by the Department in cooperation with the pertinent division of the federal government. The access location, spacing and design standards described in 18.31.6.18 NMAC and Section 18 of the State Access Management Manual should be followed for such requests.

(3) Sovereign Nations: Access requests on state highway segments that traverse sovereign nation lands shall be administered by the Department in cooperation with the pertinent sovereign nation. The access location, spacing and design standards described in 18.31.6.18 NMAC and Section 18 of the State Access Management Manual should be followed for such requests.

G. Administrative Review Process:

(1) An administrative review period begins with the acceptance of a permit application by the appropriate District Engineer or the District Engineer's designee.

(2) Upon acceptance of the application permit and supplemental information, the Department shall use 18.31.6 NMAC, the State Access Management Manual and any other applicable state statutes for evaluating and acting on the application. Access requests that break existing access control lines or that are requested on a controlled-access facility shall be acted on by the Access Control Review Committee according to the procedures in 18.31.6.19 NMAC. The application will normally be processed within forty-five (45) days. The review period may be extended by the Department when further action is required by the Access Control Review Committee or other Government Entities, the applicant will be notified. Transmittal of a completed permit, approved by the District Engineer, or transmittal of a denied application constitutes action on the permit application.

(3) If the Department approves an application permit, the permit shall be prepared and transmitted to the applicant along with any additional terms and conditions established by the Department. The owner noted on the permit, normally the surface right owner, will become the permittee. If the permittee does not agree to all terms and conditions of the permit, the permit shall not be issued.

(4) In accepting the permit, the permittee agrees to all terms and conditions of the permit. Should the permittee or applicant choose to appeal a denied application, or the terms and conditions of a permit, the appeal shall be filed within sixty (60) days of the date the denial notice or the approved permit is transmitted.

(5) The issue date of the permit is the date the Department representative signs the permit.

(6) The granting of an access permit conveys no rights, title or interest in state highway rights-of-way to the permit holder or property served. A permit for direct access to a state highway does not entitle the permit holder to control or have any rights or interests in any portion of the design, specifications or operation of the highway or roadway, including those portions of the highway built pursuant to the terms and conditions of the permit.
(7) If the Department denies an application, the Department shall provide the applicant a copy of the application marked "denied" along with any attachments and a written explanation for the decision. The applicant may request a hearing with the Department District Engineer or designee to discuss reasons for denial.

(8) Denial of an application request for physical modifications to an existing lawful access does not constitute revoking access authorization for the existing access.

(9) Requests for variance from the standards of 18.31.6 NMAC may be submitted to the District Engineer and shall be considered an attachment to the permit application. The review of variance requests shall be in accordance with Subsection J of 18.31.6.14 NMAC. Variance procedures may be used when the standards established by 18.31.6 NMAC are not entirely applicable to the proposed request for access.

(10) If, at the sole discretion of the Department, it is determined that a permittee is in violation of 18.31.6 NMAC or any conditions of a permit, the Department may revoke the permit. The revocations process shall be as described in Subsection O of 18.31.6.14 NMAC.

H. Permit Fees: The Department may establish a reasonable schedule of fees for access permits issued pursuant to 18.31.6 NMAC. It is the responsibility of the applicant to determine if any local governmental fees are applicable.

I. Appeals Procedures:

(1) If the permittee or applicant objects to the denial of a permit application by the Department or objects to any of the terms or conditions of the permit placed therein by the Department, a written appeal shall be filed with the appropriate District Engineer within sixty (60) days of the transmittal of notice of denial or transmittal of the approved permit. The request shall include reasons for the appeal and may include recommendations by the permittee or applicant.

(2) The District Engineer, or the District Engineer's designee, will submit a written request for review to the Department Traffic Technical Support engineer along with the permit application, the written appeal, and all supporting information. The Traffic Technical Support engineer will review the request and the appeal and offer an opinion to the District Engineer regarding the merits of the appeal. It is the intent of this process that an agreement is reached between the Traffic Technical Support engineer and the District Engineer. If, however, agreement cannot be reached, a formal meeting shall be scheduled with the Deputy Secretary for Highway Operations to hear the appeal. This meeting should involve the Applicant, the Traffic Technical Support engineer, and the District Engineer or designee. The Traffic Technical Support engineer shall provide a summary presentation of the facts and issues of dispute along with a discussion of the consequences, safety assessment, risks and value associated with the permit application. If applicable, the appeal should include a report from the Applicant's engineer. The Deputy Secretary for Highway Operations shall make the final decision. Final decisions that are exceptions to existing standards and regulations may be sent to the Federal Highway Administration for approval if their involvement is deemed appropriate by the Deputy Secretary for Highway Operations. At this final decision point, no other Department employee will be authorized to approve the permit.

J. Variance Procedures: If an applicant wishes to seek a variance from the standards of 18.31.6 NMAC, a written request shall be submitted as an attachment to the permit application form. The request for variance should include specific and documented reasons.

K. Construction of Access by Owner:

(1) An approved access permit shall be deemed expired and null and void if the access is not under construction within six (6) months from the date of issue unless otherwise noted and approved by the Department in writing. When the permittee is unable to commence construction within six (6) months after the permit issue date, a six-month extension may be requested from the District Engineer. Any request for an extension shall be in writing and submitted to the District Engineer before the permit expires. Denial of an extension may occur when the District Engineer ascertains and documents that unforeseen and significant changes in highway traffic operations, proposed access operation, or statutes and regulations that were not considered in the issuance of the permit have occurred. Any person wishing to reestablish an access permit that has expired shall be required to submit a new permit application and comply with all related requirements, as specified by the District Traffic Engineer.

(2) The permittee shall notify the District Traffic Engineer of pending access construction in state right-of-way at least ten (10) working days prior to any construction, unless other arrangements are made. Construction of the access shall not proceed until both the access permit and a construction traffic control plan are approved. The access shall be constructed and completed in an expeditious and safe manner and shall be finished within forty-five (45) days of initiation of construction within the highway right-of-way. Failure by the permittee to complete construction in the 45-day period shall be sufficient cause for the Department to initiate action to suspend or revoke the permit or to close the access.

(3) The construction of the access and its appurtenances as required by the terms and conditions of the
permit shall be completed at the expense of the permittee, unless other arrangements are made with the District Engineer. The permittee should arrange for access construction to be completed by qualified contractors. Construction shall meet all Department specifications and shall be subject to inspection by the Department.

(4) Property required for highway access improvements shall be dedicated, without cost, to the Department. All rights, titles and interests of dedicated property shall be conveyed to the Department. All current title policies shall be disclosed and be acceptable to the Department. The owner shall certify that the property is clean of contamination or indemnify the Department from any remediation responsibilities prior to conveyance. The Department may refuse to accept any property containing or suspected of containing hazardous substances, toxic wastes or other contaminants until such substances are either removed or the property is certified clean by the appropriate governmental entity. The access is not considered complete until property is conveyed.

(5) All materials used in the construction of the access within the highway right-of-way or on permanent easements become public property. Any materials removed from the highway right-of-way shall be disposed of as directed by the Department. All fencing, guard rail, traffic control devices and other equipment and materials removed in the course of access construction shall be given to the Department unless otherwise instructed by the permit or the Department inspector.

(6) The Department, at its discretion, may complete the installation of permanent traffic control devices. The permittee shall pay for direct costs and labor provided by the Department for the installation and relocation of all traffic control devices within public right-of-way directly related to the use or construction of the permitted access. Failure of the permittee to pay within a reasonable period may be considered grounds for permit suspension, which may lead to revocation and access removal.

(7) Where access construction requires the reconstruction of the existing state highway, the Department may require the contractor or permittee to post a bond to ensure completion of the work.

(8) The permittee shall provide adequate advance warning at all times during access construction according to the construction traffic control plan accompanying the approved access permit. The traffic control plan shall conform with the Manual of Uniform Traffic Control Devices for Streets and Highways (MUTCD). Construction traffic control may include the use of signs, flashers, barricades, and flaggers.

(9) The Department may restrict work on or immediately adjacent to the highway, control lane closure periods, and require pre-approval of all aspects of construction phasing where access construction will affect traffic operations, roadway capacity or safety. Every effort shall be made to minimize the closure periods of any travel lanes. Work in the right-of-way may not be allowed on holidays, at night, during peak traffic hours, or during adverse weather conditions without written permission from the District. Work hours shall be approved by the District Traffic Engineer.

(10) A utility permit shall be obtained for any utility work within highway right-of-way. Where necessary to remove, relocate, or repair a traffic control device or public or private utilities for access construction, the relocation, removal or repair shall be accomplished by the permittee without cost to the Department and at the direction of the Department or utility company. Any damage to the state highway or other public right-of-way beyond that which is allowed in the permit shall be repaired immediately. The permittee is responsible for the repair of any utility damaged in the course of access construction, reconstruction, or repair.

(11) Prior to use of the access, the permittee is required to complete the construction according to the terms and conditions of the access permit. Failure by the permittee to abide by all permit terms and conditions shall be sufficient cause for the Department to initiate action to suspend or revoke the permit or to close the access. If the permittee wishes to use the access prior to completion, arrangements shall be approved by the Department and included in the permit. The Department may order a halt to any unauthorized use of the access pursuant to statutory and regulatory powers. Reconstruction or improvement of the access may be required when the permittee has failed to meet required specifications of design or materials.

(12) If any construction element fails within two years due to improper construction or material specifications, the permittee shall be responsible for all repairs. Failure to make such repairs may result in suspension of the permit and closure of the access.

L. Inspection of Access:

(1) The permittee shall employ a qualified construction inspector to ensure that the conditions of the access permit are met unless otherwise determined necessary by the District Engineer’s designee. The District Engineer, or the District Engineer’s designee, may inspect the access during construction and upon completion of the access to ensure that all terms and conditions of the permit are met. Inspectors are authorized to enforce the conditions of the permit during construction and to halt any activities within state right-of-way that (1) do not comply with the provisions of the permit, (2) conflict with concurrent highway construction or maintenance work, (3) endanger highway property, natural or cultural resources protected by law, or (4) endanger the health and safety
of workers or the public.

(2) The permittee shall ensure that a copy of the permit is available for review at the construction site at all times. The permit may require the contractor to notify the District representative noted on the permit at any specified phases in construction to allow a field inspector to inspect various aspects of construction such as concrete forms, subbase, base course compaction, and materials specifications. Minor changes and additions may be ordered by the Department field inspector to meet unanticipated site conditions. The Department may require the permittee to hire a New Mexico registered professional civil engineer to affirm to the best of the engineer's knowledge that the construction is in compliance with the permit and Department specifications. The Department may require testing of materials. When required, test results shall be provided to the Department.

(3) Each permittee understands and agrees as a condition of issuance of any permit, that if the Department determines that any violation has or may result in the creation or existence of any safety or traffic hazard, the Department may immediately take such action as the Department deems necessary to correct, eliminate or mitigate such hazard, without the need for the completion of any review process.

M. Maintenance of Access: The permittee, his or her heirs, successors-in-interest, assigns, and occupants of the property serviced by the access shall be responsible for meeting the terms and conditions of the permit. This shall consist of, but not be limited to, the repair and maintenance of the access beyond the edge of the roadway including any cattle guard and gate, and the removal of snow or ice upon the access even though deposited on the access in the course of Department snow removal operations. Any significant repairs, such as culvert replacement, resurfacing, or changes in design or specifications, require authorization from the Department. The Department shall maintain the roadway including auxiliary lanes and shoulders, except in those cases where the access installation has failed due to improper access construction or failure to follow permit requirements and specifications (see Subsection K, Paragraph 12 of 18.31.6.14 NMAC). In this case, the permittee shall be responsible for such repair.

(1) Within unincorporated areas, the Department shall keep access culverts clean as part of maintenance of the highway drainage system. However, the permittee shall be responsible for the repair and replacement of any access-related culverts within the right-of-way.

(2) Within incorporated areas, drainage responsibilities for municipalities shall be determined by statute and local ordinance.

N. Indemnification: The Department and its duly appointed agents and employees shall be held harmless against any action for personal injury or property damage sustained by reason of the exercise of the permit.

O. Revocations:

(1) Where a change in property use occurs or a property's basic vehicular usage changes, so as to impact the highway, and the existing access points do not comply with 18.31.6 NMAC, the owner shall apply for a new access permit and reconstruct the driveways to comply with the Rule.

(2) If, at the sole discretion of the Department, it is determined that a permittee is in violation of 18.31.6 NMAC or any conditions of the access permit, the Department, acting through the District Engineer, or the District Engineer's designee, for the District where the driveways are located, shall inform the permittee in writing of the violations and allow the permittee thirty (30) days to correct the violations.

(3) If, after thirty (30) days, the violations are not corrected, the District Engineer, or the District Engineer's designee, may issue a written notice of revocation of the permit.

(4) The permittee may request a hearing on the revocation of the permit by giving written notice to the District office within ten (10) days of the written notice of the revocation.

(5) The requested hearing shall be held no later than thirty (30) days after receipt of the written notice of hearing. The Department's representatives shall be the District Engineer and the District Traffic Engineer, or their designees. After the hearing, the District Engineer, or the District Engineer's designee, shall issue a written decision.

(6) The permittee may appeal that decision to the Deputy Secretary for Highway Operations or designee by giving written notice of a request for an appeal to the District Office within ten (10) days of the date of the District's written decision.

(7) The Deputy Secretary for Highway Operations, or the Deputy's designee, shall hear the appeal within thirty (30) days of receipt of the request for an appeal.

(8) The decision of the Deputy Secretary, or the Deputy's designee, shall be final and this decision completes the administrative review process.

(9) After the review process, or at any stage if the conditions set out in Subsection G, Paragraph 10 of 18.31.6.14 NMAC occurs, the District Engineer, or the District Engineer's designee, may take whatever action is appropriate including, but not limited to, physically closing the driveway with barriers or signing, and the
Department may refuse to issue future permits to the permittee until the violations are corrected. The permittee shall be responsible for costs, labor and material provided by the Department for such actions.

(10) Each permittee understands and agrees as a condition of issuance of any permit, that if the Department determines that any violation has or may result in the creation or existence of any safety or traffic hazard, the Department may immediately take such action as the Department deems necessary to correct, eliminate or mitigate such hazard, without the need for the completion of any review process. The permittee shall be responsible for costs, labor and material provided by the Department for such actions.

[18.31.6.14 NMAC - Rp, 18 NMAC 31.6.14, 6/15/2017]

18.31.6.15 TRAFFIC ENGINEERING EVALUATION:

A. General: A traffic engineering evaluation shall be required for all proposed access points that are requested along the state highway system, to be submitted with the Access Permit Application (see Subsection D, Paragraph 1 of 18.31.6.14 NMAC). The extent of the traffic engineering evaluation is directly related the scope of the highway improvement under consideration, or to the size and type of land use for which access is requested. In this section, operational performance standards, traffic data requirements and traffic signal considerations are described. Additional information regarding traffic engineering evaluation requisites are provided in Section 15 of the State Access Management Manual. The specific traffic study process that shall be followed to address the traffic engineering evaluation requirement for a land development project are described in 18.31.6.16 NMAC. The criteria that shall be used to determine when speed-change lanes are required or should be considered at existing or proposed access points along the state highway system are defined in 18.31.6.17 NMAC. Design standards applicable to the traffic engineering evaluation are provided in 18.31.6.18 NMAC and are further described in Section 18 of the State Access Management Manual.

B. Scope of Evaluation: A traffic engineering evaluation shall be required when new or modified access facilities are proposed along a state highway to ensure that the operational characteristics of all state highways are maintained at acceptable levels. The evaluation may include, but is not limited to, roadway and intersection level of service calculations, driveway and intersection location and spacing assessments, traffic signal warrant and systems analyses, roadway and intersection design, and safety analysis. The Department shall require a traffic engineering evaluation of access issues for land development projects that request access to a state highway, directly or indirectly, and for highway improvement projects (see Subsection AV of 18.31.6.7 NMAC). The traffic engineering evaluation shall be performed by a registered engineer, authorized under New Mexico Engineering and Surveying Practice Act (NMSA 1978, Sections 61-23-12 through 61-23-13).

C. Traffic Operational Performance: The operational performance of a highway segment, intersection or access facility is described by level of service (LOS). Level of service is a quantitative measure of roadway or intersection operations and vehicle capacity. Level of service standards are defined by Access Category. Level of service (LOS) F shall not be accepted for individual movements.

D. Establishing Existing Traffic Conditions: Engineering evaluations of traffic and roadway conditions on state highways should be based on current traffic count information. The traffic data will be considered current if it is or has been collected within one year of the date that a scoping meeting is held between the permittee and the District Traffic Engineer, or if otherwise approved for use by the District Traffic Engineer.

(1) Defining the Data Collection Period: The permittee should recommend the periods for traffic data collection at the traffic analysis scoping meeting held between the permittee and the Department District Traffic Engineer. The periods for traffic data collection may include typical weekday conditions, special traffic conditions, or both.

(2) Typical Weekday Traffic Conditions: Traffic data representing typical weekday conditions should be obtained on Tuesday, Wednesday or Thursday, and may be obtained on Monday or Friday.

(3) Special Traffic Conditions: Special traffic conditions typically occur from 0900 to 2400 hours and from 0000 to 0600 hours on weekdays, and throughout the day on Saturday and Sunday. The duration of special traffic counts should be based on the activity or event and be sufficient to capture the peak travel condition.

(4) Traffic Data for Traffic Signal Warrant Analysis: A minimum of 12 hours of traffic count data for a representative day shall be obtained when conducting a traffic signal warrant analysis. Manual intersection turn movement counts shall be conducted for at least 8 of the 12 hours. The remaining 4 hours of data may be obtained using counting equipment on the intersection approaches, or by conducting a 12-hour intersection turn movement count. It is desirable to conduct an 8-hour manual turn movement count supplemented by 24-hour machine counts on each intersection approach when evaluating the need for traffic signal control on a state highway.

E. Design Hour Volume: Design hour volumes (DHV) should be calculated for the AM peak hour and the PM peak hour of a typical weekday, or for the design hour associated with special traffic conditions. Design
hour volume is synonymous with the term peak-hour volume that is used for traffic operations analysis. For land development projects, the DHV should be based on the traffic data collected to establish existing traffic conditions combined with background traffic growth and traffic generated by pertinent site-specific land development. For highway improvement projects, appropriate future year traffic forecasts should be developed to represent the DHV for the facility.

F. **Traffic Signals:** Traffic signals may be warranted at either public or private access locations due to new land development or the redevelopment of an existing property. The installation of traffic signal control shall be preceded by a traffic engineering evaluation that includes detailed analysis of the need for and an assessment of its impact upon the state highway. The engineering evaluation shall be conducted in accordance with the MUTCD, as clarified in sections of the State Access Management Manual, and shall include a traffic signal warrant analysis.

   1. **Installation:** If the warrant analysis and traffic engineering evaluation indicates that a signal is warranted, the permittee shall be required to provide all of or a portion of the funding for the installation (see Subsection K of 18.31.6.14 NMAC). The funding requirements will be determined by the Department.

   2. **Traffic Signal Spacing:** The number of traffic signals per mile has a significant influence on travel speed and vehicular delay along a roadway. Acceptable travel speeds and minimal delay occur when sufficient distance and relatively uniform spacing is provided between signals. Traffic signal spacing requirements shall be defined according to the highway functional classification where the intersection is located and shall be more restrictive for higher type roads.

   3. **Operations and Maintenance:** The electric power supply and maintenance for a signal installation shall be the responsibility of the local governmental agency. A Signalization and Lighting Agreement stating the operation and maintenance responsibilities shall be executed between the Department and the local agency prior to installation of the signal. For land development projects, the Signalization and Lighting agreement shall be the responsibility of the permittee. For highway improvement projects, the Signalization and Lighting agreement shall be the responsibility of the Departments project development engineer.

   [18.31.6.15 NMAC - Rp, 18 NMAC 31.6.15, 6/15/2017]

18.31.6.16 **TRAFFIC STUDIES FOR LAND DEVELOPMENT:**

A. **Purpose:** As stated in 18.31.6.15 NMAC, a traffic engineering evaluation shall be required for all land development proposals that may directly or indirectly impact a state highway facility. This section describes the specific traffic study process that shall be followed to address the traffic engineering evaluation requirement for a land development project. The traffic engineering evaluation requirement may be waived by the Department when considering a request for a new individual use access (see Subsection E, Paragraph 1 of 18.31.6.14 NMAC).

B. **Traffic Study Approach:** A two-tiered approach shall be utilized to satisfy the Department’s traffic study requirements for a proposed land development project. Traffic impact study requirements of local governments shall also be followed, where applicable. The Departments two-tiered approach is as follows: First Tier, Site Threshold Analysis (STA); Second Tier, Traffic Impact Analysis (TIA).

C. **Site Threshold Analysis:** A STA shall be required of all developing or redeveloping properties that directly or indirectly access a state highway. The STA should examine existing roadway volumes and trip generation estimates to determine if additional traffic analysis is required. The Department STA form should be completed and should be reviewed by the District Traffic Engineer. If the site characteristics and the trip generation estimate for a proposed development do not satisfy the requirements for a traffic impact analysis as determined by the District Traffic Engineer, the STA should be approved and the traffic study requirement for the proposed development will be complete. A description of the subject matter that should be included in the site traffic analysis is provided in Section 16 of the State Access Management Manual.

D. **Traffic Impact Analysis:** The purpose of a TIA is to conduct a comprehensive analysis of the transportation system that will provide access to a proposed development site, including proposed access points, to identify potential short-term and long-term impacts on the state highway system. The requirements for a TIA are described in the following subsections. All traffic impact analyses shall be sealed and signed by a registered New Mexico Professional Engineer prior to the issuance of an access permit by the Department.

   (1) **When is a TIA required?** A TIA shall be conducted for each new development or property redevelopment impacting a state highway when:

      (a) The results of a STA indicate that the proposed development is expected to generate 100 or more peak-hour total trips; or,

      (b) The results of a STA indicate that expected levels of service (LOS) will be below the applicable LOS standards, and a mitigation plan cannot be resolved between the Department and the permittee to address identified deficiencies; or,
There are safety concerns along the highway where the development is located that are verifiable by the District Traffic Engineer.

(2) When is a TIA Complete? A TIA is considered complete when a final traffic study report, signed and sealed by a New Mexico registered professional engineer, is submitted to the District Traffic Engineer, and

(a) The results of the TIA indicate that the levels of service for the proposed access points and the study area intersections satisfy or are better than the applicable LOS standards and the District Traffic Engineer concurs with those findings, or

(b) The results of the TIA indicate that improvements are required at the proposed access points and at the study area intersections, and a mitigation plan has been developed and approved by the District Engineer.

(3) Requirements for Conducting a TIA: A description of the subject matter that should be included in a traffic impact analyses is provided in Section 16 of the State Access Management Manual.

(4) Documentation: All required traffic impact analyses shall include documentation in the form of a bound report or an electronic submittal, as directed by the District Traffic Engineer. A sample outline for TIA documentation is provided in the appendix of the State Access Management Manual.

E. Fair Share Cost Analysis: Based on the impact assessment completed for the STA or TIA, contributory costs of identified improvements should be identified. In addition to implementing the necessary improvements within the highway right-of-way at proposed site access points, the permittee shall be required to provide all or a portion of funding for mitigation of identified off-site impacts. The funding requirements shall be determined by the Department through negotiations with the developer and the appropriate local government agency. Refer to Subsection J of 18.31.6.14 NMAC for the permittee’s responsibilities when constructing the required improvements.

F. Traffic Study Validity Period: Approved traffic studies should remain valid for a period of one-year following approval of the driveway permit application, or as determined by the District Traffic Engineer.

[18.31.6.16 NMAC - Rp, 18 NMAC 31.6.16, 6/15/2017]

18.31.6.17 SPEED-CHANGE LANE REQUIREMENTS:

A. Purpose: This section defines the criteria for determining where speed-change lanes are required along non-access controlled and controlled-access state highways that provide access via at-grade intersections. Application guidelines for speed-change lanes on controlled-access interstate highways and freeways, which provide access exclusively by grade-separated interchanges, are also provided; however, specific criteria for speed-change lanes on grade-separated highway facilities are not explicitly defined (see Subsection C of 18.31.6.17 NMAC).

B. State Highways with At-Grade Intersections: At unsignalized at-grade intersections, four types of speed-change lanes are used including left-turn deceleration lanes, right-turn deceleration lanes, left-turn acceleration lanes, and right-turn acceleration lanes. At signalized at-grade intersections, three types of speed-change lanes are used including exclusive left-turn lanes, exclusive right-turn lanes, and right-turn acceleration lanes.

(1) Schematic Illustrations: Illustrations of left-turn and right-turn speed-change lanes can be found in the appendix of the State Access Management Manual.

(2) Design Period: The need for speed-change lanes should be assessed using the hourly traffic volumes derived for the traffic study implementation year with the proposed development, or based on the future year traffic forecasts developed for a highway improvement project.

(3) General Criteria:

(a) Speed-change lanes may be required by the Department at unsignalized or signalized access points where specific public safety and traffic operation concerns are identified and documented.

(b) Left-turn acceleration and deceleration lanes should not overlap. Preference should be given to the left-turn deceleration lane. Alternative treatments to providing a left-turn acceleration lane may be considered when this situation arises such as providing traffic signal control or restricting the left-turn movement from the cross street. Alternative treatments require approval by the District Traffic Engineer.

(c) Where two access points have right-turn speed-change lanes that overlap, or are in close proximity but do not overlap, a continuous ingress/egress lane may be established between the access points to improve roadway consistency, safety, and to maintain roadway edge continuity.

(d) If the design of an access facility crosses two different speed zones, the speed-change lane design should be based upon the applicable speed limit. The applicable speed for a deceleration lane is the posted speed limit at the beginning of the deceleration lane. The applicable speed for an acceleration lane is the posted speed limit at the end of the acceleration lane.

(e) Acceleration lanes should only be used where sufficient acceleration length can be provided.
(f) On multi-lane highways, the directional hourly traffic volume, or directional split, should be determined based on actual traffic count data. It may be assumed that traffic is equally divided among the mainline travel lanes when traffic count data are not available.

(4) Unsignalized Intersections: In addition to the location of the roadway (urban or rural), the three primary factors used to determine the need for a speed-change lane at an unsignalized at-grade access are highway travel speed, directional traffic volume per lane, and turning traffic volume. Sight distance conditions, level of service, and roadway geometry should also be examined when determining the need for speed-change lanes.

(a) Urban Conditions: The need for left-turn and right-turn deceleration lanes on urban state highways should be determined based on the criteria in Tables 17.B-1 and 17.B-2. Right-turn acceleration lanes may be required on urban state highways with posted speed limits greater than 40 mph where an acceleration lane is necessary for public safety and traffic operations based upon site and roadway specific conditions. Left-turn acceleration lanes may be required on urban state highways with posted speed limits greater than 45 mph where an acceleration lane is necessary for public safety and traffic operations based upon site and roadway specific conditions.

(b) Rural Conditions: The need for left-turn and right-turn deceleration lanes on rural state highways should be determined based on the criteria in Tables 17.B-3 through 17.B-6. Right-turn acceleration lanes may be required on rural state highways with posted speed limits greater than 40 mph where an acceleration lane is necessary for public safety and traffic operations based upon site and roadway specific conditions. Left-turn acceleration lanes may be required on rural state highways with posted speed limits greater than 45 mph where an acceleration lane is necessary for public safety and traffic operations based upon site and roadway specific conditions.

(5) Signalized Intersections: The use of speed-change lanes at signalized intersections is generally consistent for all access categories, urban and rural. Guidelines for determining the need for speed-change lanes at signalized intersections can be found in Section 17 of the State Access Management Manual.

C. State and Interstate Highways with Grade-Separated Interchanges: Speed-change lanes are used on controlled-access state and interstate highways at or between grade-separated interchanges. The need for speed-change lanes on grade-separated highway facilities should be determined based on design principles contained in the AASHTO publication *A Policy on Geometric Design of Highways and Streets*, and based on detailed traffic operations analyses of the grade-separated facilities according to Highway Capacity Manual methodologies. The need for and function of speed-change lanes should be documented in an Interchange Access Management Plan for the interchange (refer to 18.31.6.12 NMAC). Speed-change lanes on grade-separated highway facilities should enable a driver to make the necessary transition between the speed on a ramp and the speed of operation on the mainline highway in a safe and functional manner. Additional guidance is provided in Section 17 of the State Access Management Manual.
## Table 17.B-1
Criteria for Deceleration Lanes On URBAN TWO-LANE HIGHWAYS

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<th>RIGHT-TURN DECELERATION LANE</th>
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<td>Minimum Directional Volume in the Through Lane (vph(^2))</td>
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</tbody>
</table>

**Left-turn Deceleration Lanes are required on Urban Two-lane Highways for the following Left-turn Volumes:**
- \(\leq 30\) mph: 46 vph or more
- 35 to 40 mph: 36 vph or more
- 45 to 55 mph: 26 vph or more

**Right-turn Deceleration Lanes are required on Urban Two-lane Highways for the following Right-turn Volumes:**
- \(\leq 30\) mph: 46 vph or more
- 35 to 40 mph: 41 vph or more
- 45 to 55 mph: 36 vph or more

**Notes:**
- Use linear interpolation for turning volumes between 5 and 45 vph.
- The directional volume in the through lane includes through vehicles and turning vehicles.
<table>
<thead>
<tr>
<th>Turning Volume (vph)</th>
<th>LEFT-TURN DECELERATION LANE</th>
<th>RIGHT-TURN DECELERATION LANE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Minimum Volume in the Adjacent Through Lane (vphpl)</td>
<td>Minimum Volume in the Adjacent Through Lane (vphpl)</td>
</tr>
<tr>
<td>≤ 30 mph</td>
<td>35 to 40 mph</td>
<td>45 to 55 mph</td>
</tr>
<tr>
<td>&lt; 5</td>
<td>Not Required</td>
<td>Not Required</td>
</tr>
<tr>
<td>5</td>
<td>Not Required</td>
<td>490</td>
</tr>
<tr>
<td>10</td>
<td>420</td>
<td>370</td>
</tr>
<tr>
<td>15</td>
<td>360</td>
<td>290</td>
</tr>
<tr>
<td>20</td>
<td>310</td>
<td>230</td>
</tr>
<tr>
<td>25</td>
<td>270</td>
<td>190</td>
</tr>
<tr>
<td>30</td>
<td>240</td>
<td>160</td>
</tr>
<tr>
<td>35</td>
<td>210</td>
<td>130</td>
</tr>
<tr>
<td>40</td>
<td>180</td>
<td>120</td>
</tr>
<tr>
<td>45</td>
<td>160</td>
<td>110</td>
</tr>
<tr>
<td>50</td>
<td>140</td>
<td>Required</td>
</tr>
<tr>
<td>55</td>
<td>120</td>
<td>Required</td>
</tr>
<tr>
<td>≥ 56</td>
<td>Required</td>
<td>Required</td>
</tr>
</tbody>
</table>

**Left-turn Deceleration Lanes are required on Urban Multi-lane Highways for the following Left-turn Volumes:**
- ≤ 30 mph: 56 vph or more
- 35 to 40 mph: 46 vph or more
- 45 to 55 mph: 36 vph or more

**Right-turn Deceleration Lanes are required on Urban Multi-lane Highways for the following Right-turn Volumes:**
- ≤ 30 mph: 56 vph or more
- 35 to 40 mph: 46 vph or more
- 45 to 55 mph: 41 vph or more

**Notes:**
- Use linear interpolation for turning volumes between 5 and 55 vph.
- The volume in the adjacent through lane includes through vehicles and turning vehicles.
Table 17.B-3
Criteria for Left-Turn Deceleration Lanes on
RURAL TWO-LANE HIGHWAYS

<table>
<thead>
<tr>
<th>Left-Turn Volume ¹ (vph)</th>
<th>LEFT-TURN DECELERATION LANE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Minimum Directional Volume in Through Lane (vph²)</td>
</tr>
<tr>
<td></td>
<td>≤ 30 mph</td>
</tr>
<tr>
<td>&lt; 5</td>
<td>Not Required</td>
</tr>
<tr>
<td>5</td>
<td>400</td>
</tr>
<tr>
<td>10</td>
<td>240</td>
</tr>
<tr>
<td>15</td>
<td>160</td>
</tr>
<tr>
<td>20</td>
<td>120</td>
</tr>
<tr>
<td>25</td>
<td>100</td>
</tr>
<tr>
<td>≥ 26</td>
<td>Required</td>
</tr>
</tbody>
</table>

**Left-turn Deceleration Lanes are required on Rural Two-lane Highways for the following Left-turn Volumes:**

- ≤ 30 mph : 26 vph or more
- 35 to 40 mph : 21 vph or more
- 45 to 55 mph : 16 vph or more
- > 55 mph : 11 vph or more

**Notes:**

- Use linear interpolation for left-turn volumes between 5 and 25 vph.
- The directional volume in the through lane includes through vehicles and turning vehicles.
<table>
<thead>
<tr>
<th>Left-Turn Volume $^1$ (vph)</th>
<th>LEFT-TURN DECELERATION LANE</th>
<th>Minimum Volume in Adjacent Through Lane (vph$^2$)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$\leq 30$ mph</td>
<td>35 to 40 mph</td>
</tr>
<tr>
<td>$&lt; 5$</td>
<td>Not Required</td>
<td>Not Required</td>
</tr>
<tr>
<td>5</td>
<td>450</td>
<td>310</td>
</tr>
<tr>
<td>10</td>
<td>310</td>
<td>220</td>
</tr>
<tr>
<td>15</td>
<td>240</td>
<td>160</td>
</tr>
<tr>
<td>20</td>
<td>190</td>
<td>130</td>
</tr>
<tr>
<td>25</td>
<td>150</td>
<td>110</td>
</tr>
<tr>
<td>30</td>
<td>130</td>
<td>Required</td>
</tr>
<tr>
<td>35</td>
<td>110</td>
<td>Required</td>
</tr>
<tr>
<td>$\geq 36$</td>
<td>Required</td>
<td>Required</td>
</tr>
</tbody>
</table>

*Left-turn Deceleration Lanes are required on Rural Multi-lane Highways for the following Left-turn Volumes:*

- $\leq 30$ mph: 36 vph or more
- 35 to 40 mph: 26 vph or more
- 45 to 55 mph: 21 vph or more
- $> 55$ mph: 16 vph or more

*Notes:*

*Use linear interpolation for left-turn volumes between 5 and 35 vph.*

*The volume in the adjacent through lane includes through vehicles and turning vehicles.*
Table 17.B-5  
Criteria for Right-Turn Deceleration Lanes on  
RURAL TWO-LANE HIGHWAYS

<table>
<thead>
<tr>
<th>Right-Turn Volume (^1) (vph)</th>
<th>RIGHT-TURN DECELERATION LANE</th>
<th>Minimum Directional Volume in Through Lane (vph(t)) (^2)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>≤ 30 mph</td>
</tr>
<tr>
<td>&lt; 5</td>
<td>Not Required</td>
<td>Not Required</td>
</tr>
<tr>
<td>5</td>
<td>800</td>
<td>460</td>
</tr>
<tr>
<td>10</td>
<td>430</td>
<td>280</td>
</tr>
<tr>
<td>15</td>
<td>290</td>
<td>180</td>
</tr>
<tr>
<td>20</td>
<td>200</td>
<td>140</td>
</tr>
<tr>
<td>25</td>
<td>170</td>
<td>120</td>
</tr>
<tr>
<td>30</td>
<td>160</td>
<td>110</td>
</tr>
<tr>
<td>≥ 31</td>
<td>Required</td>
<td>Required</td>
</tr>
</tbody>
</table>

Right-turn Deceleration Lanes are required on Rural Two-lane Highways for the following Right-turn Volumes:
- ≤ 30 mph: 31 vph or more
- 35 to 40 mph: 31 vph or more
- 45 to 55 mph: 26 vph or more
- > 55 mph: 21 vph or more

Notes:
- Use linear interpolation for left-turn volumes between 5 and 30 vph.
- The directional volume in the through lane includes through vehicles and turning vehicles.
<table>
<thead>
<tr>
<th>Right-Turn Volume $^1$ (vph)</th>
<th>RIGHT-TURN DECELERATION LANE</th>
<th>Minimum Volume in Adjacent Through Lane (vphpl) $^2$</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>≤ 30 mph</td>
<td>35 to 40 mph</td>
</tr>
<tr>
<td>&lt; 5</td>
<td>Not Required</td>
<td>Not Required</td>
</tr>
<tr>
<td>5</td>
<td>910</td>
<td>520</td>
</tr>
<tr>
<td>10</td>
<td>520</td>
<td>330</td>
</tr>
<tr>
<td>15</td>
<td>370</td>
<td>220</td>
</tr>
<tr>
<td>20</td>
<td>270</td>
<td>170</td>
</tr>
<tr>
<td>25</td>
<td>220</td>
<td>140</td>
</tr>
<tr>
<td>30</td>
<td>200</td>
<td>130</td>
</tr>
<tr>
<td>35</td>
<td>180</td>
<td>120</td>
</tr>
<tr>
<td>≥ 36</td>
<td>Required</td>
<td>Required</td>
</tr>
</tbody>
</table>

Right-turn Deceleration Lanes are required on Rural Multi-lane Highways for the following Right-turn Volumes:

- ≤ 30 mph : 36 vph or more
- 35 to 40 mph : 36 vph or more
- 45 to 55 mph : 31 vph or more
- > 55 mph : 21 vph or more

Notes:
- Use linear interpolation for left-turn volumes between 5 and 35 vph.
- The volume in the adjacent through lane includes through vehicles and turning vehicles.

[18.31.6.17 NMAC - Rp, 18 NMAC 31.6.17, 6/15/2017]
18.31.6.18 **ACCESS LOCATION AND DESIGN STANDARDS:** The location and design of access points along state highway facilities shall be in accordance with standards established by the Department. These standards are defined below and are expounded on in Section 18 of the *State Access Management Manual.* Where specific design criteria are not provided in 18.31.6.18 NMAC, the design approach should be based on nationally accepted standards and shall be consistent with Department specifications.

A. **General:** The Department has developed these standards to provide guidance for the location and design of access points along state highways, specifically for those highways in access categories (provided in Section 18.31.6.10 NMAC). These criteria are based upon established design standards meant to protect public safety, to maintain safe and smooth-flowing traffic operations, and to preserve the intended function of all state highway facilities.

1. **Local Standards:** Where a local jurisdiction has established more stringent design standards than the Department, the local standards should be applied with the concurrence of the Department.

2. **Material Placed within State Rights-of-Way:** Any materials used within state highway right-of-way shall be subject to approval by the Department. Refer to 18.31.6.14 NMAC for additional requirements regarding construction within state highway right-of-way.

B. **Access Location:** Access points should be located along state highways to minimize turning movement conflicts between adjacent access facilities, and to provide adequate separation of conflicts for oncoming motorists. Stopping sight distance and intersection area of influence should be considered in determining access point locations.

1. **Direct Access:** The number of access points should be limited to one per site unless frontage is adequate and design hour traffic volumes indicate that the operational level of service for a single access is expected to be below the minimum acceptable LOS standards.

2. **Proximity to Speed-Change Lanes:** Any part of an access including radius returns shall not be permitted within a speed-change lane, or within 50 feet of either the leading or trailing limits of a speed-change lane.

3. **Interchange Proximity:** Access shall not be permitted within the access control limits of an interchange, as established by the Department's access control determination, or within 50 feet of the leading or trailing edge of the access control limits for the interchange.

4. **Corner Clearance:** Driveway access should be controlled on both the approach and departure sides of an intersection to maintain adequate corner clearances.

5. **Edge Clearance:** The location of access points relative to frontage property lines should be based on local requirements. When property frontage is not adequate to comply with local government's edge clearance requirements, shared access should be considered.

C. **Access Spacing:***

1. **Non-Developed and Developing Areas:** The spacing of access points in non-developed and developing areas should be based on the access category, the posted speed limit, and the type of access requested (i.e., intersection or driveway). Desired access spacing standards are provided in Section 18 of the *State Access Management Manual.* An applicant may request a variance to the spacing requirements when physical characteristics of a property preclude the desired spacing.

2. **Developed Areas/Business Districts:** In developed or redeveloping areas where existing driveway locations preclude access spacing based on desired standards, new access points should be located to minimize conflicts with existing access points. Access points should be consolidated where possible to provide shared property access.

D. **Median Openings:** New median openings on state highways with non-traversable medians should not be allowed unless a traffic engineering evaluation analyzing all related traffic and safety issues is prepared and approved by the Department. Median openings at intersections or full-access driveways should be spaced with a minimum frequency based upon the access category and posted speed of the highway.

E. **Selection of Design Vehicle:** The design vehicle should be used to determine the geometric characteristics of a roadside access or median opening, and to define the required design components for the adjacent highway. This vehicle should be the largest vehicle that is expected to access the site on a daily basis. Selection of the design vehicle is subject to the approval of the District Traffic Engineer.

F. **Sight Distance:** Sight distance at all access locations shall be adequate to provide safe operating conditions for the motoring public. An access permit should not be issued unless adequate stopping sight distances are provided for motorists passing the access, and adequate entering and crossing sight distances are provided for motorists using the access. The permittee shall maintain adequate, unobstructed sight distance in both directions from the access. Any potentially obstructing objects such as but not limited to advertising signs, structures, trees
and bushes, shall be designed, placed and maintained at a height not to interfere with the sight distances needed by any vehicle using the access. Roadway reconstruction may be required to provide adequate sight distance.

G. **Access Horizontal Alignment:** The access centerline should be perpendicular to the state highway centerline and extend tangentially for a minimum distance of 40 feet beyond the near-side edge line. An acute angle between 75 degrees and 90 degrees may be permitted if significant physical constraints exist. Acute angles less than 75 degrees shall require special approval of the Department.

H. **Access Radius:** The access radius should be designed to accommodate the design vehicle expected to use the access on a daily basis. Access radii apply to driveways that are not urban section driveway cuts.

I. **Driveway Width:** The width of a driveway should be measured exclusive of radii or tapers. Driveway widths should vary by design vehicle. All two-way driveways should accommodate a concurrent entering and exiting design vehicle, including the design vehicle's off-tracking.

J. **Access Connection Depth:** The access connection depth should be designed to facilitate the movement of vehicles off the highway to prevent the queueing of vehicles on the traveled way. An access shall not be approved for parking areas that require backing maneuvers within state highway right-of-way. All off-street parking areas must include on-site maneuvering areas and aisles to permit vehicles to enter and exit the site in forward drive without hesitation.

K. **Speed Change Lanes:** Design specifications for speed change lanes are provided in Section 18 of the *State Access Management Manual*. Schematic illustrations of speed-change lanes are included in the appendix of the *State Access Management Manual*.

(1) **Deceleration Lanes:** Deceleration lanes typically consist of three components: transition taper, deceleration distance, and queue storage. The length of the lane should allow a vehicle to come to a comfortable stop prior to reaching the end of the expected queue in the lane.

(2) **Acceleration Lanes:** Acceleration lanes should consist of a full-width lane and a transition taper. Acceleration lanes should be designed so that a turning vehicle will reach a speed between 75 and 80 percent of the highway posted speed at the point where the full-width lane ends and the transition taper begins.

(3) **Shoulders:** Where shoulders are present along a roadway and speed change lanes are required, the shoulders should be continued along the speed change lanes. A minimum shoulder width of 4 feet should be provided adjacent to speed change lanes.

(4) **Bicycle Lane Width:** When a right-turn deceleration lane or acceleration lane is required on a roadway with designated bicycle lanes, a 5 foot lane width (7 foot desirable) should be provided between the outside travel lane and the speed-change lane.

(5) **Grade Adjustment:** Adjustments should be made to the speed change lane lengths based on the roadway grade.

(6) **Truck Design:** If a speed-change lane is designed for a site with 5 or more large trucks during the design hour, a combination truck design vehicle should be used as the design vehicle.

(7) **Pavement:** The speed change lane pavement section should be full depth and match the pavement section design of the adjacent roadway. All pavement designs require approval by the Department.

L. **Median Design for Turn Lane Installation:** Medians should be designed to accommodate the largest design vehicle anticipated to use the access, and may provide either partial or full access to a site. Where a single left-turn lane is necessary along a state highway, a minimum median width of 16 feet should be provided. Positive channelization should be provided for all median openings. Median paving should be full depth and match the pavement section design of the existing roadway. The installation of a median opening should not reduce the conveyance or storage capacity of the median, pertinent to its drainage function within the highway section.

M. **Setbacks:** Improvements on public or private property adjacent to the right-of-way should be located so that parking, stopping, and maneuvering of vehicles within the highway right-of-way will not occur.

N. **Access Vertical Alignment:** The vertical alignment of all access locations should be designed to minimize vehicle bounce and prevent high-centering of vehicles with a maximum clearance of 4 inches. The maximum grade for a driveway should be 10 percent for a low volume residential driveway and 8 percent for all other access locations. Steeper access drives require special Department approval. A level area (maximum 2 percent grade) 20 feet in length should be provided at each access to ensure proper sight distance from the access.

O. **Roadside Safety:** Careful consideration shall be given to the roadside clear zone. The permittee shall provide adequate clear zones. The roadside clear zone should be designed per the AASHTO *Roadside Design Guide* and applicable Department standards.

P. **Non-Motorized Considerations:** Access designs should provide for the safe movement of all right-of-way users, including but not limited to pedestrians, bicyclists, equestrian and the handicapped. Where non-motorized facilities cross an access point, such as bicycle trails, appropriate modifications should be made to
maintain safe operations for both facilities.

(1) Sidewalks: Sidewalks should be constructed along urban arterial and collector state highways. Sidewalks are required where they exist on adjacent properties to maintain consistency along the highway facility. Sidewalk widths should match existing adjacent sidewalk widths, but in any case shall conform to all federal, state, and local regulations and ordinances.

(2) Bicycle Facilities: Bicycle facilities along urban arterials and collectors should be constructed in accordance with the AASHTO Guide for the Development of Bicycle Facilities. Bicycle facilities should only be signed where designated by the state or local jurisdiction, with approval of the Department.

(3) ADA: Non-motorized facilities shall be designed in accordance with the Americans with Disabilities Act and applicable Department standards. Curb ramps shall be provided on urban sections where sidewalk and curb returns exist.

Q. Lighting: Where lighting is required at an access point, the lighting design shall comply with Department and AASHTO standards and the Night Sky Protection Act (NMSA 1978, Sections 74-12-1 through 74-12-11). The lighting design shall use full cut-off fixtures, and be consistent with AD 226, Roadway Lighting.

(1) Signalized Access: Illumination shall be provided at all signalized intersections in accordance with AASHTO’s An informational Guide to Roadway Lighting or as otherwise approved by the Department.

(2) Site Illumination: Light beams from on-site lighting systems shall not be directed toward oncoming traffic along the adjacent roadway(s). All site illumination shall be constructed outside of the state highway right-of-way and outside of the roadside clear zone.

R. Drainage: Adequate drainage within state highway right-of-way shall be maintained at all access locations. Drainage of roadside ditches shall not be altered or impeded, and the applicant shall provide suitable and approved drainage structures as required by the Department. All site drainage shall be collected prior to entering state highway right-of-way. Site drainage shall not be permitted to drain into state right-of-way without written approval of the Department. Drainage mitigation design shall be in accordance with Administrative Memorandum 221, Drainage Design Criteria, and the Department Drainage Manual. Access permit applicants shall submit drainage analysis documentation to the Department prior to changing site drainage conditions.

S. Right-of-Way Fencing: Driveways shall not be permitted through an existing right-of-way fence, the continuation of which is necessary for the safety of the traveling public, unless the applicant first agrees in writing to construct and maintain a gate or a cattle guard and additional fence in good repair and to keep the gate closed to livestock. The Department shall determine whether a gate or cattle guard is required. All new fencing along a state highway shall be constructed so that clear sight triangles are provided for ingressing or egressing vehicles. This may require an offset from the right-of-way line to meet the minimum clear sight triangles, on a case by case basis.

T. Mailboxes: Mailboxes installed within the state highway right-of-way shall be constructed in conformance with the rules and regulations of the U.S. Postal Service and the design standards of the Department. AASHTO’s A Guide for Erecting Mailboxes on Highways, should also be used for the location and design of mailbox installations.

U. Right-of-Way:

V. Utilities: All utilities located within the state highway right-of-way shall comply with the Department’s Utility Accommodations Policy and 17.4.2. NMAC.

W. Environmental Review: As may be required by law.

[18.31.6.18 NMAC - Rp, 18 NMAC 31.6.18, 6/15/2017]

18.31.6.19 ACCESS CONTROL REVIEW PROCEDURES:

A. Purpose: The Access Control Review Procedures define the process that the Department shall follow when considering requests for permanent breaks in existing access control lines, and for establishing or modifying access control limits on new or existing state, federal and interstate highways. Decisions regarding access control matters on state highways shall be addressed by the Access Control Review Committee of the Department. Review and approval of an access break in established access control lines shall be required by the Access Control Review Committee. Refer to the State Access Management Manual for further clarification of the Access Control Review Procedures.

B. Access Control Review Committee:

(1) Purpose: The purpose of Access Control Review Committee is to review all access control requests by Department staff members who have the expertise to identify issues that need to be resolved before access control limits are established or modified, or access breaks are recommended for approval.

(2) Authority: The Access Control Review Committee has authority to deny requested access control
breaks for existing access control facilities. Access control breaks denied by the Committee may be appealed to the Secretary of the New Mexico Department of Transportation or his/her designee.

(3) Quorum Definition: It shall be required that a simple majority of voting members of the committee, or their alternates, be in attendance for a quorum.

C. Operating Procedures:

(1) The two basic functions of the Access Control Review Committee are:

(a) To make recommendations to the Secretary, or his/her designee, on requests for establishing access control on new or existing state, federal and interstate highways; and,

(b) To make recommendations to the Secretary, or his/her designee, regarding requests for permanent breaks in existing access control lines on state, federal and interstate highways.

(2) The Committee shall have the authority to deny access control breaks. A denial by the Committee may be appealed to the Secretary, or his/her designee. Any access control breaks permitted shall, as a minimum, be in conformance with criteria contained in the most current edition of this rule, the Interstate Access Control Policy (CP 65), and any other applicable statutes, policies or procedures.

D. New or Modified Access Control Limits on State, Federal or Interstate Highways: Operating Procedures of the Access Control Review Committee for requests to establish access control on new highways or existing non-access controlled highways and procedures for modifying access control limits which shall include but not limited to shifting, extending or reducing on access-controlled highways shall be as follows. Refer to the State Access Management Manual for further clarification.

(1) A request for the establishment or modification of access control shall be received by the Chairperson of the Access Control Review Committee from a Department Project Development Engineer or from other government agencies. It shall be the responsibility of the requestor, whether representing the Department or other government agency, to provide a complete information/request package showing: Location, identified by stationing, distances and proposed right-of-way map; Specific Purpose, defined in a feasibility study or corridor study; and, Source of Funding, for all costs including engineering.

(2) The Chairperson shall request the Right of Way Bureau Chief to review the right-of-way map(s) and request Lands Engineering to prepare a draft Administrative Determination prior to review and consideration by the Committee. The draft Administrative Determination should be reviewed by the Project Development Engineer, or requestor, and the Traffic Technical Support Engineer prior to review and consideration by the Committee.

(3) The Access Control Review Committee shall either recommend approval of the draft Administrative Determination as presented or recommend approval based upon Committee discussions and recommended modifications. The Access Control Review Committee may also recommend deferral of action on an Administrative Determination to a later meeting if additional information is required by the Committee for evaluation. If the Access Control Review Committee votes to recommend disapproval of a draft Administrative Determination, they shall provide specific reasons to the requestor for their recommendation.

(4) After the Administrative Determination has been recommended for approval by the Committee, it shall be sent to the Secretary or his/her designee, for review and approval or disapproval. The request shall be sent to FHWA for approval if on a federal or interstate highway.

(5) If the request is disapproved by the Secretary or FHWA, it shall be sent back to the Chairperson of the Committee to inform the requestor of the disapproval.

(6) Once all approvals are obtained, the Chairperson shall send all documents to the office of record, which is the Right of Way Bureau Chief's office. The Right of Way Bureau Chief, or his/her designee, shall send a copy of the approved resolution to the owners of record of all affected properties.

E. Requests For Interstate Access Control Breaks: Requests for interstate access control breaks, which are requests for direct access to the interstate or requests that will have a major impact on the operation or function of the existing interchange, ramps, existing crossroad, etc., shall be handled as specified by applicable state and federal law, rules, regulations and procedures.

F. Requests For Access Control Breaks: Operating procedures of the Access Control Review Committee for requests for permanent access control breaks within the limits of existing access control rights-of-way on all federal or state highways (other than interstate) shall be as follows.

(1) A request for an access control break shall be received by the Chairperson of the Access Control Review Committee from a Department District Office, a Project Development Engineer, an Access Control Study Team, another governmental agency or from an individual from the public or a private firm. For requests that create major impacts (i.e. requires a new interchange or major modifications), it shall be the responsibility of the requestor to provide a complete feasibility study similar to that required for Interstate Access. For requests that may create intermediate impacts (i.e. require traffic signals, require intermediate geometric improvements, etc.), the requestor
shall furnish a traffic engineering evaluation or other reports to determine if the requested access is feasible. For access requests that appear to be minor, the request shall be submitted to the Access Control Review Committee for processing.

(2) Once all pertinent information is received, the request shall be placed on the agenda for the next Access Control Review Committee Meeting. The Access Control Review Committee shall consider all pertinent data available concerning the request for a break in the existing access control line.

(3) The Access Control Review Committee shall recommend approval of the access control break as presented; or, recommend approval based upon Committee discussions and recommended modifications; or, recommend deferral if additional information is required; or deny the request. The Committee may request that a specific report or feasibility study be conducted if after reviewing the request the Committee considers it to have major or intermediate impacts. If the Access Control Review Committee votes to deny an access control break, specific reasons for the denial shall be provided and a copy shall be sent to the Secretary or his/her designee. A denial by the Committee may be appealed to the Secretary, or his/her designee.

(4) After the access control break (Administrative Determination) has been recommended for approval by the Committee, it shall be sent to the Secretary or his/her designee, for review and approval or disapproval. The request shall be sent to FHWA for approval if on a federal or interstate highway.

(5) Once all approvals are obtained, the Chairperson shall send all documents to the office of record, which is the Right of Way Bureau Chief's Office. The Right of Way Bureau Chief shall request the appropriate appraisal difference be paid back to the Department.

(6) Once all approvals have been obtained and the appraisal difference has been paid back to the Department, the access-controlled right-of-way becomes non-access controlled right-of-way and the Right of Way Bureau Chief, or his/her designee, informs the requestor and the respective District that the requests for access may proceed contingent on all Department requirements being met. The respective District shall be responsible for making sure all construction is completed in accordance with the Department's regulations and any requirements that were made by the Department regarding the approval of the access control break.

G. Temporary Construction Access Breaks: Any requests for temporary construction access breaks for Department construction projects should be incorporated in roadway plans during their development. These requests should follow the format described in the access permit Form C-196.

H. Temporary Access Breaks: Any request for a temporary access break, which is not related to a construction project, shall be submitted to the Access Control Review Committee for their review and approval. The temporary access break does not require an Administrative Determination or approval of the Secretary, but shall have FHWA approval if for a federal or interstate highway. If the Committee denies a temporary access break, it can be appealed to the Secretary, or his/her designee. If an appeal is approved by the Secretary, or his/her designee, the request must be forwarded to FHWA for their review and approval if for a federal or interstate highway.

I. Access Control Recommendations by Other Government Agencies:
   (1) All access control recommendations by other government agencies for federal or state highways shall be submitted to the Departments Access Control Review Committee in compliance with 18.31.6.19 NMAC.

   (2) Any and all access control actions/recommendations (made by other governmental agencies) on federal or state highways which have not been approved according to the Access Control Review Procedures shall not be effective until acted on as set forth herein.

[18.31.6.19 NMAC - Rp, 18 NMAC 31.6.19, 6/15/2017]

HISTORY OF 18.31.6 NMAC:
Pre-NMAC History:
Material in the part was derived from that previously filed with the State Records and Archives under:

History of Repealed Material:
18 NMAC 31.6, Requirements for Driveways and Median Openings on Non-Access Controlled Highways, 12/14/1998.

Other History:
Effective 10/15/2001, 18.31.6 NMAC, State Highway Access Management Requirements, replaced 18 NMAC 31.6, Requirements for Driveways and Median Openings on Non-Access Controlled Highways.
18.31.6 NMAC, State Highway Access Management Requirements (filed 10/1/2001) was replaced by 18.31.6 NMAC, State Highway Access Management Requirements, effective 6/15/2017.
EXHIBIT “H”
18.31.6.1 ISSUING AGENCY: New Mexico Department of Transportation (Department), New Mexico State Highway and Transportation Department, 1120 Cerrillos Road, Post Office Box 1149, Santa Fe, New Mexico 87504-1149.

[18.31.6.1 NMAC - Rp, 18 NMAC 31.6.1, 40/15/2004/15/2017]

18.31.6.2 SCOPE: NMSHTD New Mexico Department of Transportation Districts and Divisions, all other state agencies, local governments, land owners, developers, and general public.

[18.31.6.2 NMAC - Rp, 18 NMAC 31.6.2, 40/15/2004/15/2017]

18.31.6.3 STATUTORY AUTHORITY:

A. State Highway Commission (now State Transportation Commission): The basic enabling legislation for the management of access on state highways is NMSA 1978, Section 67-11-2, which states: "The State Highway Commission (now State Transportation Commission) is authorized and directed to do those things essential to plan, acquire by reasonable price or condemnation and construct a section or a part of a state or federally designated highway as a freeway or controlled-access highway or to make any existing state or federally designated highway a freeway or a controlled-access highway."

B. State Highway and Transportation Department State Transportation Commission: Pursuant to NMSA 1978, Section 67-3-6, the State Highway and Transportation Department shall exercise the power, authority, and duty granted to the State Highway Commission. Therefore, the Department may prescribe rules and regulations for providing access to state highways pursuant to NMSA 1978, Chapter 67, Sections 67-11-1 through Sections 67-11-10. In addition, the following State Highway Commission State Transportation Commission policy and NMSHTD Administrative Directive supplement New Mexico State Statutes and shall be followed when determining the type and extent of access to be provided along state highways.

1. State Highway Commission State Transportation Commission Policy CP 65, Interstate Access
2. NMSHTD New Mexico Department of Transportation Administrative Directive AD 222, Highway Access Control

[18.31.6.3 NMAC - Rp, 18 NMAC 31.6.3, 40/15/2004/15/2017]

18.31.6.4 DURATION: Permanent.

[18.31.6.4 NMAC - Rp, 18 NMAC 31.6.4, 40/15/2004/15/2017]

18.31.6.5 EFFECTIVE DATE: October 15, 2001 unless a later date is cited in the history note at the end of a section.

[18.31.6.5 NMAC - Rp, 18 NMAC 31.6.5, 40/15/2004/15/2017]

18.31.6.6 OBJECTIVE:

A. By 18.31.6 NMAC, the NMSHTD Department establishes access management requirements which will protect the functional integrity of the state highway system and the public and private investment in that system. Rule 18.31.6 NMAC, and its associated State Access Management Manual which is attached to and filed concurrently with this rule, provides procedures and standards to preserve and protect the public health, safety and welfare, to maintain smooth traffic flow, and to protect the functional level of state highways while considering state, regional, local, and private transportation needs and interests. The access management requirements also consider other Department regulations, policies and procedures related to highway rights-of-way such as drainage, archeology, hazardous materials and other environmental aspects.

B. Through the administration of 18.31.6 NMAC, it is the intent of the NMSHTD Department to work with property owners and local governments to provide reasonable access to the state highway system. However, the access rights of an owner of property abutting a state highway shall be held subordinate to the public’s right and interest in a safe and efficient highway.

C. All owners of property abutting a public road have a right of reasonable access to the general system of streets and highways in the State, but not to a particular means of access. The right of access is subject to regulation for the purpose of protecting the health, safety and welfare of the traveling public.
D. Rule 18.31.6 NMAC addresses the design and location of driveways, medians, median openings, intersections, traffic signals, interchanges and other points of access to public highways under the jurisdiction of the New Mexico Highway Commission/State Transportation Commission. It is based upon the authority granted to the State Highway and Transportation Department/New Mexico Department of Transportation. 

E. As of June 9, 1989, no person shall construct or modify any permanent or temporary access providing direct vehicular movement to or from any state highway from or to property in close proximity to or adjoining a state highway without an access permit issued by the State Highway and Transportation Department/New Mexico Department of Transportation. Within those jurisdictions where the local governments and authorities have returned issuing authority to the Department, the Department has sole authority to issue state highway access permits. However, the Department will delegate the authority under 18.31.6 NMAC to other public agencies provided that these agencies minimally adopt the Rule and as the Department determines in its discretion as delegable.

F. Access permits shall be issued only when the permit application is found to be in compliance with 18.31.6 NMAC. The Department, or other issuing authority approved by the Department, is authorized to impose terms and conditions as necessary and convenient to meet the requirements of 18.31.6 NMAC. In no event shall an access permit be issued or authorized if it is detrimental to the public health, safety and welfare.

G. Direct access from a subdivision to a state highway shall be permitted only if the proposed access meets the purposes and requirements of 18.31.6 NMAC. All new subdivision of property shall provide access consistent with the requirements of 18.31.6 NMAC. The provisions of 18.31.6 NMAC shall not be deemed to deny reasonable access to the general street system. The issuance of any permit, agreement, plat, subdivision, plan or correspondence shall not abrogate or limit the regulatory powers of the Department or issuing authority in the protection of the public’s health, safety and welfare.

18.31.6.6 NMAC - Rp, 18 NMAC 31.6.6, 10/15/2004 6/15/2017

18.31.6.7 DEFINITIONS:

A. Acceleration Lane-- A speed-change lane, including full-width auxiliary lane and tapered area, for the purpose of enabling a vehicle entering a roadway to increase its speed to a rate at which it can safely merge through traffic.

B. Access-- Any driveway or other point of access such as a street, road, or highway that connects to the general street system. Where two public roadways intersect, the secondary roadway shall be considered the access.

C. Access Category-- The definition by which access to a state highway is controlled according to the categories described in 18.31.6.10 NMAC.

D. Access Control-- The regulated limitation of access to and from a highway facility including full control of access, partial control of access, and driveway regulations.

E. Applicant-- The owner of property or the representative of an owner applying for an access permit.

F. Arterial Roadway-- The primary function of an arterial roadway is to provide mobility for through traffic movements. Arterial roadways provide for land access as a secondary function.

G. At-Grade Intersection-- A crossing of two or more highway facilities at the same elevation where through traffic movements on one or more of the highways cross and where turning movements between the highway facilities may be allowed.

H. Auxiliary Lane-- An additional lane adjoining the traveled way which may be used for parking, speed change, turning, storage for turning vehicles, weaving, truck climbing, and other purposes supplementary to through traffic movement.

I. Average Daily Traffic (ADT)-- The average traffic volume per day, over a seven-day week, for a unique segment of roadway in both directions of travel on a two-way facility and in one direction of travel on a one-way facility.

J. Average Weekday Traffic (AWDT)-- The average traffic volume for a unique segment of roadway on a typical weekday (Monday through Friday) in both directions of travel on a two-way facility and in one direction of travel on a one-way facility.

K. Average Weekend Traffic (AWET)-- The average traffic volume for a unique segment of roadway over the weekend period (Saturday and Sunday) in both directions of travel on a two-way facility and in one direction of travel on a one-way facility.

L. Business District/Developed Area/Business District-- A developed area/business district occurs along a highway when within 300 feet along such highway there are buildings in use for business or industrial
purposes (including but not limited to hotels, banks or office buildings, railroad stations and public buildings) which occupy at least fifty percent of the frontage on one side or fifty percent of the frontage collectively on both sides of the highway.

M. CHDB—Consolidated Highway DataBase—maintained by the New Mexico State Highway and Transportation Department.

NM. Capacity—The maximum hourly rate at which persons or vehicles can reasonably be expected to traverse a point or uniform section of a lane or roadway under prevailing roadway, traffic, and control conditions.

ON. Change of Use—Occurs when a change in the use of the property including land, structures or facilities, or an expansion of the size of the structures or facilities, is expected to result in an increase in the trip generation of the property greater than 25 percent (either peak hour or daily) and greater than 100 vehicles per day more than the existing use.

PO. Channelized Intersection—An "at grade" intersection with painted islands, raised islands, or other devices for directing traffic along definite paths.

QP. Collector Street—Collector streets connect developed areas with the arterial street system, balancing the need to provide traffic movement with the need to provide property access.

RQ. Commission—The New Mexico State Highway Commission State Transportation Commission or its predecessor.

SR. Control of Access—The condition in which the right of owners or occupants of land abutting or adjacent to a roadway is controlled by public authority.

TS. Controlled-Access Highway—Includes highways, streets or roadways to which owners or occupants of abutting lands, and other persons, have no legal right of access except as determined by the public authority having jurisdiction over the highway, street or road.

UT. Corner Clearance—At an intersecting street or highway, the dimension measured along the edge of the traveled way between the centerline of the intersecting street and the centerlines of the first adjacent access points on the approach and departure sides of the intersection.

Vu. Cross Street—The lower function roadway that crosses a higher function facility, also referred to as Minor Street.

WY. Curb Cut—An opening along a state highway with raised curb or curb-and-gutter to provide for driveway access using drivepad construction. Also referred to as Driveway Cut.

XW. Curb Return—The access radius for an intersection or driveway opening, also referred to as Radius Return.

YS. Curb Return Construction—As applied to a driveway opening, means that proper access radii are used in the design and construction of an access facility.

ZY. Deceleration Lane—A speed-change lane, including full-width auxiliary lane and tapered areas, for the purpose of enabling a vehicle to slow to a safe turning speed when exiting a roadway.

AAZ. Department—The New Mexico State Highway and Transportation Department New Mexico Department of Transportation and all of its components, including but not limited to, the District Engineers, and the Department Divisions.

ABA. Design Vehicle—A selected motor vehicle with the weight, dimensions, and operating characteristics used to establish highway design controls.

ACB. Developer—A person or persons representing a proposed land development project.

ACD. Divided Highway—A highway with separated roadways for traffic traveling in opposite directions. Separation may be provided by depressed dividing strips, raised medians, traffic islands, other physical separations, standard pavement markings, or other traffic control devices.

AED. Drivepad Construction—As applied to a driveway or curb cut, means that access radii are not used in the design and construction of an access facility.

AFF. Driveway—For the purposes of NM SHTF Department access management requirements, a driveway is a public or private access along a state highway serving a limited area where traffic signal control is not required. Excludes public streets, highways, and other signalized intersections.

AGF. Driveway Angle—The angle of 90 degrees or less between the driveway centerline and the edge of the traveled way.

AHG. Driveway Cut—An opening along a state highway with raised curb or curb-and-gutter to provide for driveway access using drivepad construction. Also referred to as Curb Cut.

AHL. Driveway Throat Width—The narrowest width of a driveway measured parallel with the edge of the traveled way exclusive of radii, ramps or tapers.

AJL. Edge Clearance—The distance measured along the edge of the traveled way between the frontage
property line and the point of tangency of the nearest radius return for an access.

**A.K.J. Egress**—To exit an abutting property or intersecting roadway to gain access to a state highway.

**A.K. Freeway**—A multi-lane divided highway having a minimum of two lanes in each travel direction, with access provided by grade-separated interchanges.

**AML Frontage**—The distance along the highway right-of-way line of a single property tract or roadside development area between the limits of the property.

**ANM Frontage Property Line**—A line, perpendicular to the highway centerline, at each end of the frontage, extending from the right-of-way line to the edge of traveled way.

**AON Full Control of Access**—That part of access control where preference is given to through traffic by providing access connections only with selected public roads, and by prohibiting at-grade crossings and direct private driveway connections. Access control is accomplished by legally obtaining right-of-way from the abutting property owners or by use of frontage roads or other means to provide access to abutting properties.

**AO Functional Area of an Intersection**—The areas of both upstream and downstream of an intersection where additional access points should not be allowed. The upstream area consists of length. The downstream area consists of stopping sight distance. Right-turn conflict overlap should also be considered when determining the downstream area.

**APP Functional Classification**—The grouping of highways by the character of service they provide to through traffic movements (mobility) versus access to abutting properties (land accessibility).

**AQ General-Purpose Lanes**—The continuous through lanes on a highway, excluding auxiliary lanes. Sometimes referred to as mainline lanes.

**AR General Street System**—The interconnecting network of city streets, county roads, and state highways.

**AS Grade Separation**—A crossing of two transportation facilities, such as two roadways or a roadway and a railroad, at different elevations where access is not provided from either facility at their intersection.

**AT Grade or Gradient**—The rate (or percent) of change in slope. For highway facilities, it is measured along the centerline of the roadway or access facility.

**AU Highway**—The entire width between the right-of-way lines of publicly maintained traveled way when any part thereof is open to the public for purposes of vehicular travel, or the entire width of any traveled way declared to be a public highway by law. It may include bridges, culverts, sluices, drains, ditches, waterways, embankments, walls, trees, shrubs and fences.

**AV Highway Improvement Project**—Includes any project to improve a roadway segment or intersection facility to protect and maintain the general health, safety and welfare of the traveling public, typically conducted by the public entity having jurisdiction over the facility being improved. Highway improvement projects are generally included in the public entity's transportation improvement program, whether the program is local, regional or statewide.

**AW Horizontal Alignment**—The combination of curved and tangent sections of a highway in the horizontal plane.

**AX Ingress**—To leave the highway and enter into an abutting property or intersecting roadway.

**AY Intersection**—Public street or other access serving a large area or a major traffic generator(s) where traffic signal control may be provided.

**AZ Interstate Highway**—Represents the highest functional classification of a roadway in a highway network. Interstates are multi-lane divided highways having a minimum of two lanes in each travel direction, with access provided by grade-separated interchanges.

**BA km/h**—A rate of speed measured in kilometers traveled per hour.

**BB Land Development Project**—Includes any project to develop or redevelop private or public property adjacent or in close proximity to a state highway where direct or indirect access to the property is required from the state highway. Land development projects may be conducted by either private and/or public entities.

**BC Lane**—The portion of a roadway for the movement of a single line of vehicles, not including the gutter or the shoulder of the roadway.

**BD Level of Service (LOS)**—A qualitative measure describing traffic operational conditions within a traffic stream based on factors such as speed, travel time, freedom to maneuver, traffic interruptions, comfort and convenience, and safety. Level of service designations range from A (best) to F (worse).

**BE Local Governments and Authorities**—Every county, municipal, and other local board or body having authority to enact laws relating to traffic under the constitution and laws of the State of New Mexico.

**BF Local Road**—Local roads primarily provide direct access to abutting land and to roads of higher functional classification. Mobility is discouraged, especially in urban areas.
May-- A permissive condition where the condition is suggested but not mandatory.


Median-- That portion of a divided highway separating traffic traveling in opposite directions.

Minor Street-- The lower function roadway that crosses a higher function facility, also referred to as Cross Street.

mph-- A rate of speed measured in miles traveled per hour.

NMSHTDNMDOT-- The New Mexico State Highway and Transportation Department

Nominal Control of Access-- That part of access control that may be applied when full or partial control of access has not been obtained by a highway authority. A means of access control that is consistent with the functional classification of a state highway facility, and that is sufficient to maintain a safe and efficient transportation system.

Non-Access Controlled Highway-- Includes state highways where roadside access is permitted and access control has not been established by legally obtaining right-of-way from the abutting property owners or by the use of frontage roads or other means to provide access to abutting properties.

Non-Traversable Median-- A median which, by its design, physically discourages or prevents vehicles from crossing it except at designated openings which are designed for turning or crossing movements.

Partial Control of Access-- That part of access control where preference is given to through traffic to a degree that some at-grade crossings may be permitted. Access control is accomplished by legally obtaining right-of-way from the abutting property owners or by the use of frontage roads or other means to provide access to abutting properties.

Permittee-- The individual(s) responsible for fulfilling the terms and conditions of the access permit as imposed by the Department.

Property Owner-- The person or persons holding the recorded title to property abutting a state highway, and other persons holding a recorded interest in such property, that includes a right to reasonable access from the state highway system.

Radius Return-- The access radius for an intersection or driveway opening, also referred to as Curb Return.

Recovery Area-- An unobstructed area provided beyond the edge of a traveled way for the recovery of errant vehicles.

Right-In/Right-Out Driveway (RI/RO)-- A driveway located along a roadway prohibiting left-turn access into or out of the driveway.

Right-Turn Conflict Overlap-- A conflict that occurs when a driver in a through travel lane must monitor more than one access connection at a time.

Setback-- The lateral distance between the highway right-of-way line and any development structure, obstacle or parking area along the highway roadside.

Shall-- A mandatory condition where the requirements must be met.

Should-- An advisory condition where the condition is recommended but not mandatory.

Sight Distance-- The length of roadway visible to the driver of a vehicle, as further defined in the AASHTO document, A Policy on Geometric Design of Highways and Streets, latest edition.

Signal Progression-- The timing of consecutive signalized intersections to provide for the progressive movement of traffic at a planned rate of speed.

Speed-Change Lane-- A separate lane for the purpose of enabling a vehicle entering or leaving a roadway to increase or decrease its speed to a rate at which it can more safely merge into or exit from through traffic.

State Highway-- Any public highway that has been designated as a state highway by either the New Mexico State Legislature or the State Highway Commission.

Stopping Sight Distance-- The distance required by a driver of a vehicle to bring the vehicle to a stop after an object on the roadway becomes visible.

Storage Lane Length-- The length provided within a deceleration lane for the storage of queued vehicles, typically based on the vehicle queue expected during peak travel periods.

Subdivide-- To divide land into two or more smaller lots, tracts or parcels of land.

Subdivision-- A tract of land which has been subdivided in accordance with the laws of the state usually with appropriate streets, dedications and other facilities for the development or sale of industrial, commercial or residential land.

Traveled Way-- That portion of a roadway containing the travel lanes and speed-change lanes,
exclusive of pavement provided for shoulders.

**CHL.** Traversable Median-- A median which, by its design, does not physically discourage or prevent vehicles from entering upon or crossing it.

**CHJ.** Trip-- A one way vehicle movement from one location to another.

**CJK.** Trip Assignment-- Refers to the addition of trips generated by a proposed development to a transportation network. Involves the specific routing of traffic on the street system.

**CKL.** Trip Distribution-- Refers to the geographic origin or destination of trips related to a project. Involves the general allocation of trips generated by a development over the transportation network.

**CLM.** Trip Generation-- An estimate of the number of trips expected to be generated by specific type of land use.

**CMN.** Undivided Roadway-- A highway without physical separation between traffic traveling in opposite directions.

**CNO.** Vertical Alignment-- The vertical profile of a highway, intersection approach or driveway approach, typically measured along its centerline.

[18.31.6.7 NMAC - Rp, 18 NMAC 31.6.7, 10/15/2001 6/15/2017]

**18.31.6.8** REFERENCES: The reference documents listed in 18.31.6.9 NMAC are supplementary and should be used when additional detail is required to address issues that arise during the access permitting and design process. The most recent edition of each technical reference shall be used.

[18.31.6.8 NMAC - Rp, 18 NMAC 31.6.8, 10/15/2001 6/15/2017]

**18.31.6.9** REFERENCE LIST:

A. New Mexico State Statutes and Traffic Laws, as amended.

B. The current editions, as amended, of the following NMSHTDNMDOT manuals, standards, and policies:

2. Standard Specifications for Road and Bridge Construction
3. **HighwayState Transportation** Commission Policies
4. Standard Drawing Serials and Designated Drawings
6. New Mexico State Traffic Monitoring Standards
10. Location Study Procedures, A Guidebook for Alignment and Corridor Studies


F. Trip Generation, Institute of Transportation Engineers, latest edition.


N. Traffic Access and Impact Studies for Site Development, Institute of Transportation Engineers.
18.31.6.10 ACCESS CATEGORIZATION SYSTEM: The regulation and management of vehicular access to and from the New Mexico state highway system shall be defined by an access categorization system. The access categorization system for state highways is described in Section 10 of the State Access Management Manual. The access categorization system shall be based on the Functional Classified System for New Mexico roadways, which consists of interstates and freeways (INTS), principal arterials (PRAR), minor arterials (MNAR), major collectors (MCL), minor collectors (MNCL), collectors (COLL), local roads (LOC), and other special road types. The functional classified system shall be further defined as urban and rural routes based on the location of a highway with respect to population centers. The current classification of a highway shall be obtained from the Department and shall be used to determine the access category applicable to the highway under consideration. Access requirements for each access category are described in the State Access Management Manual.

18.31.6.11 ACCESS MANAGEMENT PLANS: The Department may develop an access management plan for a designated portion of state highway. An access management plan provides the Department, and local authority, with a comprehensive roadway access design plan for a designated state highway segment or corridor for the purpose of bringing that portion of highway into conformance with its access category and its functional needs to the extent feasible given existing conditions. Access management plans should be developed as described in Section 11 of the State Access Management Manual.

A. Access management plans for state highways are developed by the Department in cooperation with the appropriate local authorities through a memorandum of understanding or a joint powers agreement. Access management plans shall be adopted by the Department to become effective. The adoption of a plan shall be in the form of a formal written agreement prepared in accordance with 18.31.6.19 NMAC, Access Control Review Procedures. When applicable, concurrence of the local authority should also be obtained in written form.

B. After an access management plan is adopted, modifications to the plan shall require Department approval. Where an access management plan is in effect, all action taken in regard to access shall be in conformance with the plan and 18.31.6 NMAC unless the Department approves exceptions to the plan in writing.

18.31.6.12 INTERCHANGE ACCESS MANAGEMENT PLANS: An interchange access management plan shall be required for any new interchange or significant modification to an existing interchange. The interchange access management plan shall satisfy the requirements of 18.31.6.19 NMAC, Access Control Review Procedures, and applicable Highway State Transportation Commission policies and Department administrative directives. The interchange and the management plan shall receive the approval of the Deputy Secretary for Planning and Design Highway Operations. If located on a national or interstate highway facility, approval shall also be obtained from the Federal Highway Administration. Section 12 of the State Access Management Manual should be used to guide the development of interchange access management plans.

18.31.6.13 ACCESS CATEGORY STANDARDS:

18.31.6 NMAC
A. **Purpose:** Whereas the requirements for access requests along state highways are described in multiple sections of 18.31.6 NMAC, summary information for each access category is provided in Section 13 of the *State Access Management Manual* to assist users in locating and determining the requirements for a proposed access along a state highway. Practitioners shall reference specific sections of 18.31.6 NMAC when determining applicable requirements for their access request. The summary information contained in Section 13 of the manual is provided solely to ease use of the access management manual, with the exception below regarding interstate highways.

B. **Interstate Highways:** The design of interstate highway facilities, requests for modifications to existing interstate access points, and new interstate access proposals shall satisfy the requirements of all pertinent sections of the Code of Federal Regulations (CFR) and all interstate highway policies adopted by the Federal Highway Administration. All decisions regarding interstate highway facilities shall require the approval of the Federal Highway Administration and the New Mexico Department of Transportation.

18.31.6.14 **PERMITTING PROCESS:**
A. **Purpose:** This section describes the application procedures for submitting an access permit request to the Department, and the administrative procedures used by the Department to approve or deny access permit requests on state highways.

B. **Types of Access:** Following is a list of the types of access that may occur along the state highway system. Refer to Section 14 of the *State Access Management Manual* for a description of each access type.

1. Existing Lawful Access, Modification or Transfer
2. New Private Access (Individual Use)
3. New Subdivision Access
4. New Public Access
5. New Commercial Access
6. Temporary Construction Access
7. Temporary Access
8. Emergency Access
9. Field Access
10. Access Breaks in Established Access Control Lines
11. Illegal Access

C. **Access Permit Applications:** Applications for access permits shall be made by the property owner; the property owner's authorized representative; or, the local governmental agency requesting access from a state highway. Applications are required for all new access types, for modification or transfer of existing lawful access permits, and for upgrading an existing illegal access to a lawful access.

1. Changes in Property Use: Where additional traffic is projected due to expansion or redevelopment of a property, the property owner shall contact the Department to determine if a new permit application and modifications to existing access points will be required. If the Department determines that the increased traffic generated by the property does not require modifications to the existing permitted access, according to the procedures of 18.31.6.16 NMAC, a new permit application will not be required. Failure to contact the Department to determine the need for access modifications or to apply for such modifications prior to initiation of property improvements, land use changes or traffic flow alterations actions, may result in notification to the property owner of intent to revoke or modify the existing permit and closure of the access to the property. (Also refer to Subsection O of 18.31.6.14 NMAC.)

2. Permit Application Form: All applications shall be made on the approved [NMSHTD Department](https://www.dot.state.nm.us/content/dam/nmdot/Infrastructure/Access_management_Manual.pdf) permit application form, "Application for Permit to Construct Driveway Access or Median Opening on Public Right-of-Way."

3. **NMSHTD** District Offices: Persons wishing to submit an access permit application form should contact the appropriate [NMSHTD Department](https://www.dot.state.nm.us/content/dam/nmdot/Infrastructure/Access_management_Manual.pdf) District Office to obtain application forms. District offices are located in Deming, Roswell, Albuquerque, Las Vegas, Santa Fe, and Milan. The application form can also be found in the appendix of the *State Access Management Manual*, and on the [NMSHTD Departments external Access Management web site](https://www.dot.state.nm.us/content/dam/nmdot/Infrastructure/Access_management_Manual.pdf).

D. **Application Submittal Requirements:**

1. Completed access permit forms shall be submitted to the appropriate District office with proof of ownership of the property to which access is requested. A plan or sketch of the property shall be attached to the permit application showing the length of the property frontage, the distance from the edge of the traveled roadway to the property line, edge clearances, corner clearances, the distance from the referenced mile marker to the centerline.
of the proposed driveway(s), and the location of any access drives along the state highway across from the proposed site. A traffic engineering evaluation shall be conducted for all access permit requests according to the requirements of 18.31.6.15 NMAC and 18.31.6.16 NMAC, with an exception. The traffic engineering evaluation may be waived for individual use access requests (see Subsection E, Paragraph 1 of 18.31.6.14 NMAC). In such cases, the Department may conduct the evaluation required to determine if an individual use access will be permitted or denied. A construction traffic control plan shall also be submitted with the application for review and approval by the District Traffic Engineer. The Department may require additional information relative to the evaluation of a permit application as further described in Section 14 of the State Access Management Manual.

(2) A permit application may be refused/deemed incomplete by the Department when necessary and relevant information is missing, or when there is no written evidence of the ownership of the property surface rights provided in the application. If the application is refused/deemed incomplete, the Department shall notify the applicant within ten (10) fifteen (15) working days of receipt of the application and shall indicate the reason or reasons for refusal. The Department review period begins with the acceptance of an application.

(3) Each permittee understands and agrees as a condition of issuance of any permit, that if the Department determines that any violation has or may result in the creation or existence of any safety or traffic hazard, the Department may immediately take such action as the Department deems necessary to correct, eliminate or mitigate such hazard, without the need for the completion of any review process.

E. Access Permit Requests from Private Entities:

(1) Individual Use: Requests for a new private access shall be made on the NMSHTTDDepartment access permit application. Application requirements for individual use permits shall include a platted survey of the property, proof of ownership of the property, and details regarding the location of the proposed access and the proposed development. A traffic engineering evaluation typically shall not be required. The Department may conduct the evaluation required to determine if an individual use access will be permitted or denied.

(2) Subdivisions and Commercial Developments: Requests for new subdivision access, new commercial access or for modification to an existing lawful access for other than individual use shall be made on the access permit application. The applicant shall be required to satisfy all pertinent requirements of 18.31.6 NMAC.

F. Access Permit Requests from Governmental Entities:

(1) Local Governments: Requests by local governmental agencies for new access or for the reconstruction of existing access to the state highway shall be administered by the Department. The local governmental agency shall be considered the applicant. The Department shall work with local governmental agencies realizing that the access will serve multiple property owners. Access to subdivisions and other developments shall not be considered public access until the access is constructed and accepted as a local public roadway.

(a) Local governmental agencies shall provide notice of all developments that will directly or indirectly impact the state highway, and shall request Department participation in the administration of an access permit if it is determined by the Department that an access facility will directly or indirectly impact the operation and function of a state highway. The local governmental agencies may also require subdivider to provide additional notice of all proposed developments that will directly or indirectly impact the state highway.

(b) Where a private development accessing the roadway of an appropriate local authority necessitates access improvements where the local roadway connects to a state highway, the permittee shall be the local jurisdiction.

(c) Local governmental agencies may be required to submit a traffic engineering evaluation with a permit application. The traffic engineering evaluation requirement shall be determined according to the procedures described in 18.31.6.15 NMAC and 18.31.6.16 NMAC. Local governmental agencies may require developers to assist in preparing and providing this information for submission to the State.

(2) Federal Government: Requests for access from a state highway by the General Services Administration (GSA), United States Postal Service (USPS), Department of Defense (DOD), Department of Energy (DOE), or other divisions of the federal government shall be administered by the NMSHTTDDepartment in cooperation with the pertinent division of the federal government. The access location, spacing and design standards described in 18.31.6.18 NMAC and Section 18 of the State Access Management Manual should be followed for such requests.

(3) Sovereign Nations: Access requests on state highway segments that traverse sovereign nation lands shall be administered by the Department in cooperation with the pertinent sovereign nation. The access location, spacing and design standards described in 18.31.6.18 NMAC and Section 18 of the State Access Management Manual should be followed for such requests.

G. Administrative Review Process:
(1) An administrative review period begins with the acceptance of a permit application by the appropriate District Engineer or the District Engineer's designee.

(2) Upon acceptance of the application permit and supplemental information, the Department shall use 18.31.6 NMAC, the *State Access Management Manual* and any other applicable state statutes for evaluating and acting on the application. Access requests that break existing access control lines or that are requested on a controlled-access facility shall be acted on by the Access Control Review Committee according to the procedures in 18.31.6.19 NMAC. The application will normally be processed within forty-five (45) days. The review period may be extended by the Department when further action is required by the Access Control Review Committee or other Government Entities, the applicant will be notified. Transmittal of a completed permit, approved by the District Engineer, or transmittal of a denied application constitutes action on the permit application.

(3) If the Department approves an application permit, the permit shall be prepared and transmitted to the applicant along with any additional terms and conditions established by the Department. The owner noted on the permit, normally the surface right owner, will become the permitee. If the permettee does not agree to all terms and conditions of the permit, the permit shall not be issued.

(4) In accepting the permit, the permittee agrees to all terms and conditions of the permit. Should the permittee or applicant choose to appeal a denied application, or the terms and conditions of a permit, the appeal shall be filed within sixty (60) days of the date the denial notice or the approved permit is transmitted.

(5) The issue date of the permit is the date the Department representative signs the permit.

(6) The granting of an access permit conveys no rights, title or interest in state highway rights-of-way to the permit holder or property served. A permit for direct access to a state highway does not entitle the permit holder to control or have any rights or interests in any portion of the design, specifications or operation of the highway or roadway, including those portions of the highway built pursuant to the terms and conditions of the permit.

(7) If the Department denies an application, the Department shall provide the applicant a copy of the application marked "denied" along with any attachments and a written explanation for the decision. The Department or the applicant may request a meeting with the Department District Engineer or Designee to discuss reasons for denial.

(8) Denial of an application request for physical modifications to an existing lawful access does not constitute revoking access authorization for the existing access.

(9) Requests for variance from the standards of 18.31.6 NMAC may be submitted to the District Engineer and shall be considered an attachment to the permit application. The review of variance requests shall be in accordance with Subsection J of 18.31.6.14 NMAC. Variance procedures may be used when the standards established by 18.31.6 NMAC are not entirely applicable to the proposed request for access.

(10) If, at the sole discretion of the Department, it is determined that a permittee is in violation of 18.31.6 NMAC or any conditions of a permit, the Department may revoke the permit. The revocations process shall be as described in Subsection NO of 18.31.6.14 NMAC.

**H. Permit Fees:** The Department may establish a reasonable schedule of fees for access permits issued pursuant to 18.31.6 NMAC. It is the responsibility of the applicant to determine if any local governmental fees are applicable.

**I. Appeals and Variance Procedures:**

(1) If the permittee or applicant objects to the denial of a permit application by the Department or objects to any of the terms or conditions of the permit placed therein by the Department, a written appeal shall be filed with the appropriate District Engineer within sixty (60) days of the transmittal of notice of denial or transmittal of the approved permit. The request shall include reasons for the appeal and may include recommendations by the permittee or applicant.

(2) The District Engineer, or the District Engineer's designee, will submit a written request for review to the NMSHTDDepartment Traffic Technical Support engineer along with the permit application, the written appeal, and all supporting information. The Traffic Technical Support engineer will review the request and the appeal and offer an opinion to the District Engineer regarding the merits of the appeal. It is the intent of this process that an agreement is reached between the Traffic Technical Support engineer and the District Engineer. If, however, agreement cannot be reached, a formal meeting shall be scheduled with the Deputy Secretary for Planning and DesignHighway Operations to hear the appeal. This meeting should involve the Applicant, the Traffic Technical Support engineer, and the District Engineer or designee. The Traffic Technical Support engineer shall provide a summary presentation of the facts and issues of dispute along with a discussion of the consequences, safety assessment, risks and value associated with the permit application. If applicable, the appeal should include a report from the Applicant's engineer. The Deputy Secretary for Planning and DesignHighway Operations shall make the
final decision. Final decisions that are exceptions to existing standards and regulations may be sent to the Federal Highway Administration for approval if their involvement is deemed appropriate by the Deputy Secretary for Planning and Design. Highway Operations. At this final decision point, no other Department employee will be authorized to approve the permit.

J. Variance Procedures:

(1) An applicant wishes to seek a variance from the standards of 18.31.6 NMAC, a written request shall be submitted as an attachment to the permit application form. The request for variance should include specific and documented reasons.

(4) Review of the request for variance shall follow the procedure described in Subsection I, Paragraph 2 of 18.31.6.14 NMAC.

JK. Construction of Access by Owner:

(1) An approved access permit shall be deemed expired and null and void if the access is not under construction within six (6) months from the date of issue unless otherwise noted and approved by the Department in writing. When the permittee is unable to commence construction within six (6) months after the permit issue date, a six-month extension may be requested from the District Engineer. Any request for an extension shall be in writing and submitted to the District Engineer before the permit expires. Denial of an extension may occur when the District Engineer ascertains and documents that unforeseen and significant changes in highway traffic operations, proposed access operation, or statutes and regulations that were not considered in the issuance of the permit have occurred. Any person wishing to reestablish an access permit that has expired shall be required to submit a new permit application and comply with all related requirements, as specified by the District Traffic Engineer.

(2) The permittee shall notify the District Traffic Engineer of pending access construction at least three (3)ten (10) working days prior to any construction, unless other arrangements are made, in state highway right-of-way. Construction of the access shall not proceed until both the access permit and a construction traffic control plan are approved. The access shall be constructed and completed in an expeditious and safe manner and shall be finished within forty-five (45) days of initiation of construction within the highway right-of-way. Failure by the permittee to complete construction in the 45-day period shall be sufficient cause for the Department to initiate action to suspend or revoke the permit or to close the access.

(3) The construction of the access and its appurtenances as required by the terms and conditions of the permit shall be completed at the expense of the permittee, unless other arrangements are made with the District Engineer. The permittee should arrange for access construction to be completed by qualified contractors. Construction shall meet all Department specifications and shall be subject to inspection by the Department.

(4) Property required for highway access improvements shall be dedicated, without cost, to the Department. All rights, titles and interests of dedicated property shall be conveyed to the Department. All current title policies shall be disclosed and be acceptable to the Department. The owner shall certify that the property is clean of contamination or indemnify the Department from any remediation responsibilities prior to conveyance. The Department may refuse to accept any property containing or suspected of containing hazardous substances, toxic wastes or other contaminants until such substances are either removed and/or the property is certified clean by the appropriate governmental entity. The access is not considered complete until property is conveyed.

(5) All materials used in the construction of the access within the highway right-of-way or on permanent easements become public property. Any materials removed from the highway right-of-way shall be disposed of as directed by the Department. All fencing, guard rail, traffic control devices and other equipment and materials removed in the course of access construction shall be given to the Department unless otherwise instructed by the permit or the Department inspector.

(6) The Department, at its discretion, may complete the installation of permanent traffic control devices. The permittee shall pay for direct costs and labor provided by the Department for the installation and relocation of all traffic control devices within public right-of-way directly related to the use or construction of the permitted access. Failure of the permittee to pay within a reasonable period may be considered grounds for permit suspension, which may lead to revocation and access removal.

(7) Where access construction requires the reconstruction of the existing state highway, the Department may require the contractor or permittee to post a bond to ensure completion of the work.

(8) The permittee shall provide adequate advance warning at all times during access construction according to the construction traffic control plan accompanying the approved access permit. The traffic control plan shall conform with the Manual of Uniform Traffic Control Devices for Streets and Highways (MUTCD). Construction traffic control may include the use of signs, flashers, barricades, and flaggers.

(9) The Department may restrict work on or immediately adjacent to the highway, control lane closure periods, and require pre-approval of all aspects of construction phasing where access construction will affect traffic.
operations, roadway capacity and/or safety. Every effort shall be made to minimize the closure periods of any travel lanes. Work in the right-of-way may not be allowed on holidays, at night, during peak traffic hours, or during adverse weather conditions without written permission from the District. Work hours shall be approved by the District Traffic Engineer.

(10) A utility permit shall be obtained for any utility work within highway right-of-way. Where necessary to remove, relocate, or repair a traffic control device on public or private utilities for access construction, the relocation, removal or repair shall be accomplished by the permittee without cost to the Department and at the direction of the Department or utility company. Any damage to the state highway or other public right-of-way beyond that which is allowed in the permit shall be repaired immediately. The permittee is responsible for the repair of any utility damaged in the course of access construction, reconstruction, or repair.

(11) Prior to use of the access, the permittee is required to complete the construction according to the terms and conditions of the access permit. Failure by the permittee to abide by all permit terms and conditions shall be sufficient cause for the Department to initiate action to suspend or revoke the permit or to close the access. If the permittee wishes to use the access prior to completion, arrangements shall be approved by the Department and included in the permit. The Department may order a halt to any unauthorized use of the access pursuant to statutory and regulatory powers. Reconstruction or improvement of the access may be required when the permittee has failed to meet required specifications of design or materials.

(12) If any construction element fails within two years due to improper construction or material specifications, the permittee shall be responsible for all repairs. Failure to make such repairs may result in suspension of the permit and closure of the access.

**K.2. Inspection of Access:**
(1) The permittee shall employ a qualified construction inspector to ensure that the conditions of the access permit are met unless otherwise determined necessary by the District Engineer's designee. The District Engineer, or the District Engineer's designee, may inspect the access during construction and upon completion of the access to ensure that all terms and conditions of the permit are met. Inspectors are authorized to enforce the conditions of the permit during construction and to halt any activities within state right-of-way that (1) do not comply with the provisions of the permit, (2) conflict with concurrent highway construction or maintenance work, (3) endanger highway property, natural or cultural resources protected by law, or (4) endanger the health and safety of workers or the public.

(2) The permittee shall ensure that a copy of the permit is available for review at the construction site at all times. The permit may require the contractor to notify the District representative noted on the permit at any specified phases in construction to allow a field inspector to inspect various aspects of construction such as concrete forms, subbase, base course compaction, and materials specifications. Minor changes and additions may be ordered by the Department field inspector to meet unanticipated site conditions. The Department may require the permittee to hire a New Mexico registered professional civil engineer to afford the best of the engineer's knowledge that the construction is in compliance with the permit and Department specifications. The Department may require testing of materials. When required, test results shall be provided to the Department.

(3) Each permittee understands and agrees as a condition of issuance of any permit, that if the Department determines that any violation has or may result in the creation or existence of any safety or traffic hazard, the Department may immediately take such action as the Department deems necessary to correct, eliminate or mitigate such hazard, without the need for the completion of any review process.

**L.M. Maintenance of Access:** The permittee, his or her heirs, successors-in-interest, assigns, and occupants of the property serviced by the access shall be responsible for meeting the terms and conditions of the permit. This shall consist of, but not limited to, the repair and maintenance of the access beyond the edge of the roadway including any cattle guard and gate, and the removal of snow or ice upon the access even though deposited on the access in the course of Department snow removal operations. Any significant repairs, such as culvert replacement, resurfacing, or changes in design or specifications, require authorization from the Department. The Department shall maintain the roadway including auxiliary lanes and shoulders, except in those cases where the access installation has failed due to improper access construction and/or failure to follow permit requirements and specifications (see Subsection **K**, Paragraph 12 of 18.31.6.14 NMAC). In this case, the permittee shall be responsible for such repair.

(1) Within unincorporated areas, the Department shall keep access culverts clean as part of maintenance of the highway drainage system. However, the permittee shall be responsible for the repair and replacement of any access-related culverts within the right-of-way.

(2) Within incorporated areas, drainage responsibilities for municipalities shall be determined by
statute and local ordinance.

MN. **Indemnification:** The Department and its duly appointed agents and employees shall be held harmless against any action for personal injury or property damage sustained by reason of the exercise of the permit.

NG. **Revocations:**

1. Where a change in property use occurs or a property's basic vehicular usage changes, so as to impact the highway, and the existing access points do not comply with 18.31.6 NMAC, the owner shall apply for a new access permit and reconstruct the driveways to comply with the Rule.

2. If, at the sole discretion of the Department, it is determined that a permittee is in violation of 18.31.6 NMAC or any conditions of the access permit, the Department, acting through the District Engineer, or the District Engineer's designee, shall inform the permittee in writing of the violations and allow the permittee thirty (30) days to correct the violations.

3. If, after thirty (30) days, the violations are not corrected, the District Engineer, or the District Engineer's designee, **may revoke the permit or issue a written notice of revocation of the permit.**

4. The permittee may request a hearing on the revocation of the permit by giving written notice to the District office within ten (10) days of the written notice of revocation.

5. The requested hearing shall be held no later than thirty (30) days after receipt of the written notice of hearing. The Department's representatives shall be the District Engineer and the District Traffic Engineer, or their designees. After the hearing, the District Engineer, or the District Engineer's designee, shall issue a written decision.

6. The permittee may appeal that decision to the Deputy Secretary for Planning and Design/Highway Operations or designee at the General Office in Santa Fe by giving written notice of a request for an appeal to the District Office within ten (10) days of the District's written decision.

7. The Deputy Secretary for Planning and Design/Highway Operations, or the Deputy's designee, shall hear the appeal within thirty (30) days of receipt of the request for an appeal.

8. The decision of the Deputy Secretary, or the Deputy's designee, shall be final and this decision completes the administrative review process.

9. After the review process, or at any stage if the conditions set out in Subsection NG, Paragraph 10 of 18.31.6.14 NMAC occurs, the District Engineer, or the District Engineer's designee, may take whatever action is appropriate including, but not limited to, physically closing the driveway with barriers or signing, and the Department may refuse to issue future permits to the permittee until the violations are corrected. The permittee shall be responsible for costs, labor and material provided by the Department for such actions.

10. Each permittee understands and agrees as a condition of issuance of any permit, that if the Department determines that any violation has or may result in the creation or existence of any safety or traffic hazard, the Department may immediately take such action as the Department deems necessary to correct, eliminate or mitigate such hazard, without the need for the completion of any review process. The permittee shall be responsible for costs, labor and material provided by the Department for such actions.


18.31.6.15 **TRAFFIC ENGINEERING EVALUATION:**

A. **General:** A traffic engineering evaluation shall be required for all proposed access points that are requested along the state highway system, to be submitted with the Access Permit Application (see Subsection D, Paragraph 1 of 18.31.6.14 NMAC). The extent of the traffic engineering evaluation is directly related the scope of the highway improvement under consideration, or to the size and type of land use for which access is requested. In this section, operational performance standards, traffic data requirements and traffic signal considerations are described. Additional information regarding traffic engineering evaluation requisites are provided in Section 15 of the State Access Management Manual. The specific traffic study process that shall be followed to address the traffic engineering evaluation requirement for a land development project are described in 18.31.6.16 NMAC. The criteria that shall be used to determine when speed-change lanes are required or should be considered at existing or proposed access points along the state highway system are defined in 18.31.6.17 NMAC. Design standards applicable to the traffic engineering evaluation are provided in 18.31.6.18 NMAC and are further described in Section 18 of the State Access Management Manual.

B. **Scope of Evaluation:** A traffic engineering evaluation shall be required when new or modified access facilities are proposed along a state highway to ensure that the operational characteristics of all state highways are maintained at acceptable levels. The evaluation may include, but is not limited to, roadway and intersection level of service calculations, driveway and intersection location and spacing assessments, traffic signal warrant and systems analyses, roadway and intersection design, and safety analysis. The Department shall require a
traffic engineering evaluation of access issues for land development projects that request access to a state highway, directly or indirectly, and for highway improvement projects (see Subsection AV of 18.31.6.7 NMAC). The traffic engineering evaluation shall be performed by a registered engineer, authorized under New Mexico Engineering and Surveying Practice Act (NMSA 1978, Sections 61-23-12 through 61-23-13).

C. **Traffic Operational Performance:** The operational performance of a highway segment, intersection or access facility is described by level of service (LOS). Level of service is a quantitative measure of roadway or intersection operations and vehicle capacity. Level of service standards are defined by Access Category. Level of service (LOS) F shall not be accepted for individual movements.

D. **Establishing Existing Traffic Conditions:** Engineering evaluations of traffic and roadway conditions on state highways should be based on current traffic count information. The traffic data will be considered current if it is or has been collected within one year of the date that a scoping meeting is held between the permittee and the District Traffic Engineer, or if otherwise approved for use by the District Traffic Engineer.

1. Defining the Data Collection Period: The permittee should recommend the periods for traffic data collection at the traffic analysis scoping meeting held between the permittee and the NMSHTD Department District Traffic Engineer. The periods for traffic data collection may include typical weekday conditions, special traffic conditions, or both.

2. Typical Weekday Traffic Conditions: Traffic data representing typical weekday conditions should be obtained on Tuesday, Wednesday or Thursday, and may be obtained on Monday or Friday.

3. Special Traffic Conditions: Special traffic conditions typically occur from 1900 to 2400 hours and from 0000 to 0600 hours on weekdays, and throughout the day on Saturday and Sunday. The duration of special traffic counts should be based on the activity or event and be sufficient to capture the peak travel condition.

4. Traffic Data for Traffic Signal Warrant Analysis: A minimum of 12 hours of traffic count data for a representative day shall be obtained when conducting a traffic signal warrant analysis. Manual intersection turn movement counts shall be conducted for at least 8 of the 12 hours. The remaining 4 hours of data may be obtained using counting equipment on the intersection approaches, or by conducting a 12-hour intersection turn movement count. It is desirable to conduct an 8-hour manual turn movement count supplemented by 24-hour machine counts on each intersection approach when evaluating the need for traffic signal control on a state highway.

E. **Design Hour Volume:** Design hour volumes (DHV) should be calculated for the AM peak hour and the PM peak hour of a typical weekday, or for the design hour associated with special traffic conditions. Design hour volume is synonymous with the term peak-hour volume that is used for traffic operations analysis. For land development projects, the DHV should be based on the traffic data collected to establish existing traffic conditions combined with background traffic growth and traffic generated by pertinent site-specific land development. For highway improvement projects, appropriate future year traffic forecasts should be developed to represent the DHV for the facility.

F. **Traffic Signals:** Traffic signals may be warranted at either public or private access locations due to new land development or the redevelopment of an existing property. The installation of traffic signal control shall be preceded by a traffic engineering evaluation that includes detailed analysis of the need for and an assessment of its impact upon the state highway. The engineering evaluation shall be conducted in accordance with the MUTCD, as clarified in sections of the State Access Management Manual, and shall include a traffic signal warrant analysis.

1. Installation: If the warrant analysis and traffic engineering evaluation indicates that a signal is warranted, the permittee shall be required to provide all of or a portion of the funding for the installation (see Subsection JK of 18.31.6.14 NMAC). The funding requirements will be determined by the Department.

2. Traffic Signal Spacing: The number of traffic signals per mile has a significant influence on travel speed and vehicular delay along a roadway. Acceptable travel speeds and minimal delay occur when sufficient distance and relatively uniform spacing is provided between signals. Traffic signal spacing requirements shall be defined according to the highway functional classification where the intersection is located and shall be more restrictive for higher type roads.

3. Operations and Maintenance: The electric power supply and maintenance for a signal installation shall be the responsibility of the local governmental agency. A Signalization and Lighting Agreement stating the operation and maintenance responsibilities shall be executed between the Department and the local agency prior to installation of the signal. For land development projects, the Signalization and Lighting agreement shall be the responsibility of the permittee. For highway improvement projects, the Signalization and Lighting agreement shall be the responsibility of the NMSHTD Department project development engineer.


18.31.6.16 TRAFFIC STUDIES FOR LAND DEVELOPMENT:
A. **Purpose:** As stated in 18.31.6.15 NMAC, a traffic engineering evaluation shall be required for all land development proposals that may directly or indirectly impact a state highway facility. This section describes the specific traffic study process that shall be followed to address the traffic engineering evaluation requirement for a land development project. The traffic engineering evaluation requirement may be waived by the Department when considering a request for a new individual use access (see Subsection DE, Paragraph 1 of 18.31.6.14 NMAC).

B. **Traffic Study Approach:** A three-tiered approach shall be utilized to satisfy the NMSHTD Department traffic study requirement for a proposed land development project. Traffic impact study requirements of local governments shall also be followed, where applicable. The NMSHTD Department's three-tiered approach is as follows: First Tier, Site Traffic Analysis (STA); Second Tier, Site Traffic Analysis (TTA); and, Third Tier, Traffic Impact Analysis (TIA). Additional requirements and guidelines for conducting the three-tiered traffic study are defined in Section 16 of the *State Access Management Manual*.

C. **Site Threshold Assessment Analysis:** A STHA shall be required of all developing or redeveloping properties that directly or indirectly access a state highway. The STHA should examine existing roadway volumes and trip generation estimates to determine if additional traffic analysis is required. The NMSHTD Department STHA form should be completed and should be reviewed by the District Traffic Engineer. If the site characteristics and the trip generation estimate for a proposed development do not satisfy the requirements for a site traffic analysis or a traffic impact analysis as determined by the District Traffic Engineer, the STHA should be approved and the traffic study requirement for the proposed development will be complete. A description of the subject matter that should be included in the site traffic analysis is provided in Section 16 of the *State Access Management Manual*. Additional analysis is required based on the results of the STH, the District Traffic Engineer should indicate to the applicant the level of analysis that is required.

D. **Site Traffic Analysis:** The purpose of a STA is to evaluate localized impacts of a proposed development. In general, localized impacts include the proposed access drive or drives and the first adjacent major intersection, signalized or unsignalized, in each direction along the state highway where the proposed access is located. The requirements for a STA are described in the following subsections. All site traffic analyses shall be sealed and signed by a registered New Mexico Professional Engineer prior to the issuance of an access permit by the Department.

   1. When is a STA Required? A STA shall be conducted for each new development or property redevelopment along a state highway when:
      1a. The results of a STH indicate that the proposed development is expected to generate
          between 25 and 100 peak-hour total trips, and the adjacent roadway currently has a daily traffic volume greater than
          an average of 1,000 vehicles per day per lane (vpdpl), or
      1b. There are safety concerns along the highway where the development is located that are
          verifiable by the District Traffic Engineer.
      1c. For smaller developments, the requirement to perform a STA may be waived if site-specific
          improvements identified by the District Traffic Engineer are implemented by the applicant as a condition of the
          access permit. The improvements shall be implemented prior to permanent use of the access.

   2. When is a STA Complete? A STA is considered complete when a final traffic study report, signed
      and sealed by a New Mexico registered professional engineer, is submitted to the District Traffic Engineer, and
      2a. The results of the STA indicate that the levels of service for the proposed access points and
          the adjacent intersections satisfy or are better than the applicable LOS standards and the District Traffic Engineer
          concurs with those findings, or
      2b. The results of the STA indicate that improvements are required at the proposed access
          points and/or at the adjacent intersections, and a mitigation plan has been developed and approved by the District
          Engineer.

   3. Requirements for Conducting a STA: A description of the subject matter that should be included
      in a site traffic analyses is provided in Section 16 of the *State Access Management Manual*.

E.D. **Traffic Impact Analysis:** The purpose of a TIA is to conduct a comprehensive analysis of the transportation system that will provide access to a proposed development site, including proposed access points, to identify potential short-term and long-term impacts on the state highway system. The requirements for a TIA are described in the following subsections. All traffic impact analyses shall be sealed and signed by a registered New Mexico Professional Engineer prior to the issuance of an access permit by the Department.

   1. When is a TIA Required? A TIA shall be conducted for each new development or property
      redevelopment along a state highway when:
      1a. The results of a STHA indicate that the proposed development is expected to generate 100
          or more peak-hour total trips; or,
(b) The results of a STA indicate that expected levels of service (LOS) will be below the applicable LOS standards, and a mitigation plan cannot be resolved between the NMSHTFDDepartment and the permittee to address identified deficiencies; or,

(c) There are safety concerns along the highway where the development is located that are verifiable by the District Traffic Engineer.

(2) When is a TIA Complete? A TIA is considered complete when a final traffic study report, signed and sealed by a New Mexico registered professional engineer, is submitted to the District Traffic Engineer, and

(a) The results of the TIA indicate that the levels of service for the proposed access points and the study area intersections satisfy or are better than the applicable LOS standards and the District Traffic Engineer concurs with those findings, or

(b) The results of the TIA indicate that improvements are required at the proposed access points and/or at the study area intersections, and a mitigation plan has been developed and approved by the District Engineer.

(3) Requirements for Conducting a TIA: A description of the subject matter that should be included in a traffic impact analyses is provided in Section 16 of the State Access Management Manual.

(4) Documentation: All required traffic impact analyses shall include documentation in the form of a bound report or an electronic submittal, as directed by the District Traffic Engineer. A sample outline for TIA documentation is provided in the appendix of the State Access Management Manual.

FE. Fair Share Cost Analysis: Based on the impact assessment completed for the STA or TIA, contributory costs of identified improvements should be identified. In addition to implementing the necessary improvements within the highway right-of-way at proposed site access points, the permittee shall be required to provide all or a portion of funding for mitigation of identified off-site impacts. The funding requirements shall be determined by the Department through negotiations with the developer and the appropriate local government agency. Refer to Subsection J of 18.31.6.14 NMAC for the permittee's responsibilities when constructing the required improvements.

GE. Traffic Study Validity Period: Approved traffic studies should remain valid for a period of one-year following approval of the driveway permit application, or as determined by the District Traffic Engineer.

18.31.6.16 NMAC - Rp, 18 NMAC 31.6.12.4, 10/15/20016 6/15/2017

18.31.6.17 SPEED-CHANGE LANE REQUIREMENTS:

A. Purpose: This section defines the criteria for determining where speed-change lanes are required along non-access controlled and controlled-access state highways that provide access via at-grade intersections. Application guidelines for speed-change lanes on controlled-access interstate highways and freeways, which provide access exclusively by grade-separated interchanges, are also provided; however, specific criteria for speed-change lanes on grade-separated highway facilities are not explicitly defined (see Subsection C of 18.31.6.17 NMAC).

B. State Highways with At-Grade Intersections: At unsignalized at-grade intersections, four types of speed-change lanes are used including left-turn deceleration lanes, right-turn deceleration lanes, left-turn acceleration lanes, and right-turn acceleration lanes. At signalized at-grade intersections, three types of speed-change lanes are used including exclusive left-turn lanes, exclusive right-turn lanes, and right-turn acceleration lanes.

(1) Schematic Illustrations: Illustrations of left-turn and right-turn speed-change lanes can be found in the appendix of the State Access Management Manual.

(2) Design Period: The need for speed-change lanes should be assessed using the hourly traffic volumes derived for the traffic study implementation year with the proposed development, or based on the future year traffic forecasts developed for a highway improvement project.

(3) General Criteria:

(a) Speed-change lanes may be required by the NMSHTFDDepartment at unsignalized or signalized access points where specific public safety and traffic operations concerns are identified and documented.

(b) Left-turn acceleration and deceleration lanes should not overlap. Preference should be given to the left-turn deceleration lane. Alternative treatments to providing a left-turn acceleration lane may be considered when this situation arises such as providing traffic signal control or restricting the left-turn movement from the cross street. Alternative treatments require approval by the DepartmentDistrict Traffic Engineer.

(e) Where two access points have right-turn speed-change lanes that overlap, or are in close proximity but do not overlap, a continuous ingress/egress lane may be established between the access points to improve roadway consistency, safety, and to maintain roadway edge continuity.

(d) If the design of an access facility crosses two different speed zones, the speed-change lane
design should be based upon the applicable speed limit. The applicable speed for a deceleration lane is the posted speed limit at the beginning of the deceleration lane. The applicable speed for an acceleration lane is the posted speed limit at the end of the acceleration lane.

(e) Acceleration lanes should only be used where sufficient acceleration length can be provided.

(f) On multi-lane highways, the directional hourly traffic volume, or directional split, should be determined based on actual traffic count data. It may be assumed that traffic is equally divided among the mainline travel lanes when traffic count data are not available.

(4) Unsignalized Intersections: In addition to the location of the roadway (urban or rural), the three primary factors used to determine the need for a speed-change lane at an unsignalized at-grade access are highway travel speed, directional traffic volume per lane, and turning traffic volume. Sight distance conditions, level of service, and roadway geometry should also be examined when determining the need for speed-change lanes.

(a) Urban Conditions: The need for left-turn and right-turn deceleration lanes on urban state highways should be determined based on the criteria in Tables 17.B-1 and 17.B-2. Right-turn acceleration lanes may be required on urban state highways with posted speed limits greater than 40 mph where an acceleration lane is necessary for public safety and traffic operations based upon site and roadway specific conditions. Left-turn acceleration lanes may be required on urban state highways with posted speed limits greater than 45 mph where an acceleration lane is necessary for public safety and traffic operations based upon site and roadway specific conditions.

(b) Rural Conditions: The need for left-turn and right-turn deceleration lanes on rural state highways should be determined based on the criteria in Tables 17.B-3 through 17.B-6. Right-turn acceleration lanes may be required on rural state highways with posted speed limits greater than 40 mph where an acceleration lane is necessary for public safety and traffic operations based upon site and roadway specific conditions. Left-turn acceleration lanes may be required on rural state highways with posted speed limits greater than 45 mph where an acceleration lane is necessary for public safety and traffic operations based upon site and roadway specific conditions.

(5) Signalized Intersections: The use of speed-change lanes at signalized intersections is generally consistent for all access categories, urban and rural. Guidelines for determining the need for speed-change lanes at signalized intersections can be found in Section 17 of the State Access Management Manual.

C. State and Interstate Highways with Grade-Separated Interchanges: Speed-change lanes are used on controlled-access state and interstate highways at or between grade-separated interchanges. The need for speed-change lanes on grade-separated highway facilities should be determined based on design principles contained in the AASHTO publication *A Policy on Geometric Design of Highways and Streets*, and based on detailed traffic operations analyses of the grade-separated facilities according to Highway Capacity Manual methodologies. The need for and function of speed-change lanes should be documented in an Interchange Access Management Plan for the interchange (refer to 18.31.6.12 NMAC). Speed-change lanes on grade-separated highway facilities should enable a driver to make the necessary transition between the speed on a ramp and the speed of operation on the mainline highway in a safe and comfortable functional manner. Additional guidance is provided in Section 17 of the State Access Management Manual.
Table 17.B-1  
Criteria For Deceleration Lanes On  
Urban Two-lane Highways

<table>
<thead>
<tr>
<th>Turning Volume (^1) (vph)</th>
<th><strong>LEFT-TURN DECELERATION LANE</strong></th>
<th><strong>RIGHT-TURN DECELERATION LANE</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Minimum Directional Volume in the Through Lane (vphpl) (^2)</td>
<td>Minimum Directional Volume in the Through Lane (vphpl) (^2)</td>
</tr>
<tr>
<td></td>
<td>(\leq 30) mph</td>
<td>35 to 45 mph</td>
</tr>
<tr>
<td>&lt; 5</td>
<td>Not Required</td>
<td>Not Required</td>
</tr>
<tr>
<td>5</td>
<td>510</td>
<td>450</td>
</tr>
<tr>
<td>10</td>
<td>390</td>
<td>330</td>
</tr>
<tr>
<td>15</td>
<td>320</td>
<td>250</td>
</tr>
<tr>
<td>20</td>
<td>270</td>
<td>200</td>
</tr>
<tr>
<td>25</td>
<td>230</td>
<td>160</td>
</tr>
<tr>
<td>30</td>
<td>200</td>
<td>130</td>
</tr>
<tr>
<td>35</td>
<td>170</td>
<td>110</td>
</tr>
<tr>
<td>40</td>
<td>150</td>
<td>Required</td>
</tr>
<tr>
<td>45</td>
<td>130</td>
<td>Required</td>
</tr>
<tr>
<td>(\geq 46)</td>
<td>Required</td>
<td>Required</td>
</tr>
</tbody>
</table>

**Left-turn Deceleration Lanes are Required on Urban Two-lane Highways for the following Left-turn Volumes:**

- \(\leq 30\) mph : \(46\) vph or more
- 35 to 40 mph : \(36\) vph or more
- 45 to 55 mph : \(26\) vph or more

**Right-turn Deceleration Lanes are Required on Urban Two-lane Highways for the following Right-turn Volumes:**

- \(\leq 30\) mph : \(46\) vph or more
- 35 to 40 mph : \(41\) vph or more
- 45 to 55 mph : \(36\) vph or more

**Notes:**

Use linear interpolation for turning volumes between 5 and 45 vph.
The directional volume in the through lane includes through vehicles and turning vehicles.
### Table 17.B-2
Criteria for Deceleration Lanes on URBAN MULTI-LANE HIGHWAYS

<table>
<thead>
<tr>
<th>Turning Volume (^1) (vph)</th>
<th>LEFT-TURN DECELERATION LANE Minimum Volume in the Adjacent Through Lane (vphpl) (^2)</th>
<th>RIGHT-TURN DECELERATION LANE Minimum Volume in the Adjacent Through Lane (vphpl) (^2)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(\leq 30) mph</td>
<td>35 to 40 mph</td>
</tr>
<tr>
<td>(&lt; 5)</td>
<td>Not Required</td>
<td>Not Required</td>
</tr>
<tr>
<td>5</td>
<td>Not Required</td>
<td>490</td>
</tr>
<tr>
<td>10</td>
<td>420</td>
<td>370</td>
</tr>
<tr>
<td>15</td>
<td>360</td>
<td>290</td>
</tr>
<tr>
<td>20</td>
<td>310</td>
<td>230</td>
</tr>
<tr>
<td>25</td>
<td>270</td>
<td>190</td>
</tr>
<tr>
<td>30</td>
<td>240</td>
<td>160</td>
</tr>
<tr>
<td>35</td>
<td>210</td>
<td>130</td>
</tr>
<tr>
<td>40</td>
<td>180</td>
<td>120</td>
</tr>
<tr>
<td>45</td>
<td>160</td>
<td>110</td>
</tr>
<tr>
<td>50</td>
<td>140</td>
<td>Required</td>
</tr>
<tr>
<td>55</td>
<td>120</td>
<td>Required</td>
</tr>
<tr>
<td>(\geq 56)</td>
<td>Required</td>
<td>Required</td>
</tr>
</tbody>
</table>

**Left-turn Deceleration Lanes are Required on Urban Multi-lane Highways for the following Left-turn Volumes:**
- \(\leq 30\) mph : 56 vph or more
- 35 to 40 mph : 46 vph or more
- 45 to 55 mph : 36 vph or more

**Right-turn Deceleration Lanes are Required on Urban Multi-lane Highways for the following Right-turn Volumes:**
- \(\leq 30\) mph : 56 vph or more
- 35 to 40 mph : 46 vph or more
- 45 to 55 mph : 41 vph or more

**Notes:**
- Use linear interpolation for turning volumes between 5 and 55 vph.
- The volume in the adjacent through lane includes through vehicles and turning vehicles.
### Table 17.B-3
Criteria for Left-Turn Deceleration Lanes on Rural Two-Lane Highways

<table>
<thead>
<tr>
<th>Left-Turn Volume $^1$ (vph)</th>
<th>LEFT-TURN DECELERATION LANE</th>
<th>Minimum Directional Volume in Through Lane (vph$^2$) $^2$</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$\leq 30$ mph</td>
<td>35 to 40 mph</td>
</tr>
<tr>
<td>&lt; 5</td>
<td>Not Required</td>
<td>Not Required</td>
</tr>
<tr>
<td>5</td>
<td>400</td>
<td>220</td>
</tr>
<tr>
<td>10</td>
<td>240</td>
<td>140</td>
</tr>
<tr>
<td>15</td>
<td>160</td>
<td>100</td>
</tr>
<tr>
<td>20</td>
<td>120</td>
<td>80</td>
</tr>
<tr>
<td>25</td>
<td>100</td>
<td>Required</td>
</tr>
<tr>
<td>$\geq 26$</td>
<td>Required</td>
<td>Required</td>
</tr>
</tbody>
</table>

Left-turn Deceleration Lanes are Required on Rural Two-lane Highways for the following Left-turn Volumes:
- $\leq 30$ mph: 26 vph or more
- 35 to 40 mph: 21 vph or more
- 45 to 55 mph: 16 vph or more
- $> 55$ mph: 11 vph or more

Notes:
- Use linear interpolation for left-turn volumes between 5 and 25 vph.
- The directional volume in the through lane includes through vehicles and turning vehicles.
<table>
<thead>
<tr>
<th>Left-Turn Volume (^1) (vph)</th>
<th>LEFT-TURN DECELERATION LANE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Minimum Volume in Adjacent Through Lane (vphpl) (^2)</td>
</tr>
<tr>
<td></td>
<td>≤ 30 mph</td>
</tr>
<tr>
<td>&lt; 5</td>
<td>Not Required</td>
</tr>
<tr>
<td>5</td>
<td>450</td>
</tr>
<tr>
<td>10</td>
<td>310</td>
</tr>
<tr>
<td>15</td>
<td>240</td>
</tr>
<tr>
<td>20</td>
<td>190</td>
</tr>
<tr>
<td>25</td>
<td>150</td>
</tr>
<tr>
<td>30</td>
<td>130</td>
</tr>
<tr>
<td>35</td>
<td>110</td>
</tr>
<tr>
<td>≥ 36</td>
<td>Required</td>
</tr>
</tbody>
</table>

*Left-turn Deceleration Lanes are Required on Rural Multi-lane Highways for the following Left-turn Volumes:*
- ≤ 30 mph: 36 vph or more
- 35 to 40 mph: 26 vph or more
- 45 to 55 mph: 21 vph or more
- > 55 mph: 16 vph or more

*Notes:*
*Use linear interpolation for left-turn volumes between 5 and 35 vph.*
*The volume in the adjacent through lane includes through vehicles and turning vehicles.*
Table 17.B-5
Criteria for Right-Turn Deceleration Lanes on Rural Two-lane Highways

<table>
<thead>
<tr>
<th>Right-Turn Volume (^1) (vph)</th>
<th>RIGHT-TURN DECELERATION LANE</th>
<th>Minimum Directional Volume in Through Lane (vph(^2))</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>≤ 30 mph</td>
<td>35 to 40 mph</td>
</tr>
<tr>
<td>&lt; 5</td>
<td>Not Required</td>
<td>Not Required</td>
</tr>
<tr>
<td>5</td>
<td>800</td>
<td>460</td>
</tr>
<tr>
<td>10</td>
<td>430</td>
<td>280</td>
</tr>
<tr>
<td>15</td>
<td>290</td>
<td>180</td>
</tr>
<tr>
<td>20</td>
<td>200</td>
<td>140</td>
</tr>
<tr>
<td>25</td>
<td>170</td>
<td>120</td>
</tr>
<tr>
<td>30</td>
<td>160</td>
<td>110</td>
</tr>
<tr>
<td>≥ 31</td>
<td>Required</td>
<td>Required</td>
</tr>
</tbody>
</table>

Right-turn Deceleration Lanes are Required on Rural Two-lane Highways for the following Right-turn Volumes:
- ≤ 30 mph: 31 vph or more
- 35 to 40 mph: 31 vph or more
- 45 to 55 mph: 26 vph or more
- > 55 mph: 21 vph or more

Notes:
Use linear interpolation for left-turn volumes between 5 and 30 vph.
The directional volume in the through lane includes through vehicles and turning vehicles.
### Table 17.B-6
Criteria for Right-Turn Deceleration Lanes on RURAL MULTI-LANE HIGHWAYS

<table>
<thead>
<tr>
<th>Right-Turn Volume (^1) (vph)</th>
<th>RIGHT-TURN DECELERATION LANE</th>
<th>Minimum Volume in Adjacent Through Lane (vphpl) (^2)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(\leq 30) mph</td>
<td>35 to 40 mph</td>
</tr>
<tr>
<td>(&lt; 5)</td>
<td>Not Required</td>
<td>Not Required</td>
</tr>
<tr>
<td>5</td>
<td>910</td>
<td>520</td>
</tr>
<tr>
<td>10</td>
<td>520</td>
<td>330</td>
</tr>
<tr>
<td>15</td>
<td>370</td>
<td>220</td>
</tr>
<tr>
<td>20</td>
<td>270</td>
<td>170</td>
</tr>
<tr>
<td>25</td>
<td>220</td>
<td>140</td>
</tr>
<tr>
<td>30</td>
<td>200</td>
<td>130</td>
</tr>
<tr>
<td>35</td>
<td>180</td>
<td>120</td>
</tr>
<tr>
<td>(\geq 36)</td>
<td>Required</td>
<td>Required</td>
</tr>
</tbody>
</table>

*Right-turn Deceleration Lanes are Required on Rural Multi-lane Highways for the following Right-turn Volumes:*

- \(\leq 30\) mph: 36 vph or more
- 35 to 40 mph: 36 vph or more
- 45 to 55 mph: 31 vph or more
- \(> 55\) mph: 21 vph or more

*Notes:*

- Use linear interpolation for left-turn volumes between 5 and 35 vph.
- The volume in the adjacent through lane includes through vehicles and turning vehicles.
18.31.6.18  **ACCESS LOCATION AND DESIGN STANDARDS:** The location and design of access points along state highway facilities shall be in accordance with standards established by the NMSHTD Department. These standards are defined below and are expounded on in Section 18 of the State Access Management Manual. Where specific design criteria are not provided in 18.31.6.18 NMAC, the design approach should be based on nationally accepted standards and shall be consistent with Department specifications.

A. **General:** The Department has developed these standards to provide guidance for the location and design of access points along state highways, specifically for those highways in access categories UPA, RPA, LMA, RMA, UCOI, and RCOI (see provided in Section 18.31.6.10 NMAC). These criteria are based upon established design standards meant to protect public safety, to maintain safe and smooth-flowing traffic operations, and to preserve the intended function of all state highway facilities.

1. **Local Standards:** Where a local jurisdiction has established more stringent design standards than the Department, the local standards should be applied with the concurrence of the Department.

2. **Material Placed within State Rights-of-Way:** Any materials used within state highway right-of-way shall be subject to approval by the NMSHTD Department. Refer to 18.31.6.14 NMAC for additional requirements regarding construction within state highway right-of-way.

B. **Access Location:** Access points should be located along state highways to minimize turning movement conflicts between adjacent access facilities, and to provide adequate separation of conflicts for oncoming motorists. Stopping sight distance and intersection area of influence should be considered in determining access point locations.

1. **Direct Access:** The number of access points should be limited to one per site unless frontage is adequate and design hour traffic volumes indicate that the operational level of service for a single access is expected to be below the minimum acceptable LOS standards.

2. **Proximity to Speed-Change Lanes:** Any part of an access including radius returns, access should not be permitted within a speed-change lane, or within 50 feet of either the leading or trailing limits of a speed-change lane.

3. **Interchange Proximity:** Access shall not be permitted within the access control limits of an interchange, as established by the Department's access control determination, or within 50 feet of the leading or trailing edge of the access control limits for the interchange.

4. **Corner Clearance:** Driveway access should be controlled on both the approach and departure sides of an intersection to maintain adequate corner clearances.

5. **Edge Clearance:** The location of access points relative to frontage property lines should be based on local requirements. When property frontage is not adequate to comply with local government's edge clearance requirements, shared access should be considered.

C. **Access Spacing:**

1. **Non-Developed and Developing Areas:** The spacing of access points in non-developed and developing areas should be based on the access category, the posted speed limit, and the type of access requested (i.e., intersection or driveway). Desired access spacing standards are provided in Section 18 of the State Access Management Manual. An applicant may request a variance to the spacing requirements when physical characteristics of a property preclude the desired spacing.

2. **Developed Areas/Business Districts:** In developed or redeveloping areas where existing driveway locations preclude access spacing based on desired standards, new access points should be located to minimize conflicts with existing access points. Access points should be consolidated where possible to provide shared property access.

3. **Business Districts:** The spacing of access points within business districts on urban or rural highways may be adjusted based on site-specific conditions consistent with the requirements for the access category of the highway.

D. **Median Openings:** New median openings on state highways with non-traversable medians should not be allowed unless a traffic engineering evaluation analyzing all related traffic and safety issues is prepared and approved by the Department. Median openings at intersections or full-access driveways should be spaced with a minimum frequency based upon the access category and posted speed of the highway.

E. **Selection of Design Vehicle:** The design vehicle should be used to determine the geometric characteristics of a roadside access or median opening, and to define the required design components for the adjacent highway. This vehicle should be the largest vehicle that is expected to access the site on a daily basis. Selection of the design vehicle is subject to the approval of the District Traffic Engineer.

F. **Sight Distance:** Sight distance at all access locations shall be adequate to provide safe operating
conditions for the motoring public. An access permit should not be issued unless adequate stopping sight distances are provided for motorists passing the access, and adequate entering and crossing sight distances are provided for motorists using the access. The permittee shall maintain adequate, unobstructed sight distance in both directions from the access. Any potentially obstructing objects such as but not limited to advertising signs, structures, trees and bushes, shall be designed, placed and maintained at a height not to interfere with the sight distances needed by any vehicle using the access. Roadway reconstruction may be required to provide adequate sight distance.

G. **Driveway Angle Access Horizontal Alignment:** The access centerline should be perpendicular to the state highway centerline and extend tangentially for a minimum distance of 40 feet beyond the near-side edge line. An acute angle between 75 degrees and 90 degrees may be permitted if significant physical constraints exist. Acute angles less than 75 degrees shall require special approval of the Department.

H. **Access Radius:** The access radius should be designed to accommodate the design vehicle expected to use the access on a daily basis. Access radii apply to driveways that are not urban section driveway cuts.

I. **Driveway Width:** The width of a driveway should be measured exclusive of radii or tapers. Driveway widths should vary by design vehicle. All two-way driveways should accommodate a concurrent entering and exiting design vehicle, including the design vehicle’s off-tracking.

J. **Access Connection Depth:** The access connection depth should be designed to facilitate the movement of vehicles off the highway to prevent the queuing of vehicles on the traveled way. An access shall not be approved for parking areas that require backing maneuvers within state highway right-of-way. All off-street parking areas must include on-site maneuvering areas and aisles to permit vehicles to enter and exit the site in forward drive without hesitation.

K. **Speed Change Lanes:** Design specifications for speed change lanes are provided in Section 18 of the *State Access Management Manual*. Schematic illustrations of speed-change lanes are included in the appendix of the *State Access Management Manual*.

(1) **Deceleration Lanes:** Deceleration lanes typically consist of three components: transition taper, deceleration distance, and queue storage. The length of the lane should allow a vehicle to come to a comfortable stop prior to reaching the end of the expected queue in the lane.

(2) **Acceleration Lanes:** Acceleration lanes should consist of a full-width lane and a transition taper. Acceleration lanes should be designed so that a turning vehicle will reach a speed between 75 and 80 percent of the highway posted speed at the point where the full-width lane ends and the transition taper begins.

(3) **Channelization:** Standard roadway signing and marking should be installed for all speed change lanes.

(43) **Shoulders:** Where shoulders are present along a roadway and speed change lanes are required, the shoulders should be continued along the speed change lanes. A minimum shoulder width of 4 feet should be provided adjacent to speed change lanes.

(54) **Bicycle Lane Width Buffers:** When a right-turn deceleration lane or acceleration lane is required on a roadway with designated bicycle lanes, a minimum buffer of 45 feet per lane width (57 feet desirable) should be provided between the outside travel lane and the speed-change lane.

(65) **Grade Adjustment:** Adjustments should be made to the speed change lane lengths based on the roadway grade.

(76) **Truck Design:** If a speed-change lane is designed for a site with 5 or more large trucks during the design hour, a combination truck design vehicle should be used as the design vehicle.

(87) **Pavement:** The speed change lane pavement section should be full depth and match the pavement section design of the adjacent roadway. All pavement designs require approval by the Department.

L. **Median Design for Turn Lane Installation:** Medians should be designed to accommodate the largest design vehicle anticipated to use the access, and may provide either partial or full access to a site. Where a single left-turn lane is necessary along a state highway, a minimum median width of 16 feet should be provided. Positive channelization should be provided for all median openings. Median paving should be full depth and match the pavement section design of the existing roadway. The installation of a median opening should not reduce the conveyance or storage capacity of the median, pertinent to its drainage function within the highway section.

M. **Setbacks:** Improvements on public or private property adjacent to the right-of-way should be located so that parking, stopping, and maneuvering of vehicles within the highway right-of-way will not occur.

N. **Access Vertical Alignment:** The vertical alignment of all access locations should be designed to minimize vehicle bounce and prevent high-centering of vehicles with a maximum clearance of 4 inches. The maximum grade for a driveway should be 10 percent for a low volume residential driveway and 8 percent for all other access locations. Steeper access drives require special Department approval. A level area (maximum 2 percent grade) 20 feet in length should be provided at each access to ensure proper sight distance from the access.
O. Roadside Safety: Careful consideration shall be given to the roadside clear zone. The permittee shall provide adequate clear zones. The roadside clear zone should be designed per the AASHTO Roadside Design Guide and applicable NMSHTD Department standards.

P. Non-Motorized Considerations: Access designs should provide for the safe movement of all right-of-way users, including but not limited to pedestrians, bicyclists, equestrian and the handicapped. Where non-motorized facilities cross an access point, such as bicycle trails, appropriate modifications should be made to maintain safe operations for both facilities.

(1) Sidewalks: Sidewalks should be constructed along urban arterial and collector state highways. Sidewalks are required where they exist on adjacent properties to maintain consistency along the highway facility. Sidewalk widths should match existing adjacent sidewalk widths, but in any case shall conform with all federal, state, and local regulations and ordinances.

(2) Bicycle Facilities: Bicycle facilities along urban arterials and collectors shall be constructed in accordance with the AASHTO Guide for the Development of Bicycle Facilities. Bicycle facilities should only be signed where designated by the state or local jurisdiction, with approval of the Department.

(3) ADA: Non-motorized facilities shall be designed in accordance with the Americans with Disabilities Act and applicable NMSHTD Department standards. Curb ramps shall be provided on urban sections where sidewalk and curb returns exist.

Q. Lighting: Where lighting is required at an access point, the lighting design shall comply with NMSHTD Department and AASHTO standards and the Night Sky Protection Act (NMSA 1978, Sections 74-12-1 through 74-12-11; House Bill 39). The lighting design shall use full cut-off fixtures, and be consistent with AD 226, Roadway Lighting.

(1) Signaled Access: Illumination shall be provided at all signalized intersections in accordance with AASHTO's An informational Guide to Roadway Lighting or as otherwise approved by the Department.

(2) Site Illumination: Light beams from on-site lighting systems shall not be directed toward oncoming traffic along the adjacent roadway(s). All site illumination shall be constructed outside of the state highway right-of-way and outside of the roadside clear zone. Theater screens, lights, signs, billboards, signals or other illuminated structures should not be located adjacent to state highways, or in the vicinity thereof, which distract the attention of and impair the safety of the traveling public.

R. Drainage: Adequate drainage within state highway right-of-way shall be maintained at all access locations. Drainage of roadside ditches shall not be altered or impeded, and the applicant shall provide suitable and approved drainage structures as required by the Department. All site drainage shall be collected prior to entering state highway right-of-way. Site drainage shall not be permitted to drain into state right-of-way without written approval of the Department. Drainage mitigation design shall be in accordance with Administrative Memorandum 221, Drainage Design Criteria, and the NMSHTD Department Drainage Manual. Access permit applicants shall submit drainage analysis documentation to the Department prior to changing site drainage conditions.

S. Right-of-Way Fencing: Driveways shall not be permitted through an existing right-of-way fence, the continuation of which is necessary for the safety of the traveling public, unless the applicant first agrees in writing to construct and maintain a gate or a cattle guard and additional fence in good repair and to keep the gate closed to livestock. The Department shall determine whether a gate or cattle guard is required. All new fencing along a state highway shall be constructed so that clear sight triangles are provided for ingressing or egressing vehicles. This may require an offset from the right-of-way line to meet the minimum setback standards: clear site triangles, on a case by case basis.

T. Mailboxes: Mailboxes installed within the state highway right-of-way shall be constructed in conformance with the rules and regulations of the U.S. Postal Service and the design standards of the NMSHTD Department. AASHTO's A Guide for Erecting Mailboxes on Highways, should also be used for the location and design of mailbox installations.


18.31.6.19 ACCESS CONTROL REVIEW PROCEDURES:

A. Purpose: The Access Control Review Procedures define the process that the Department shall follow when considering requests for permanent breaks in existing access control lines, and/or for establishing or modifying access control limits on new or existing state, federal and interstate highways. Decisions regarding access control matters on state highways shall be addressed by the Access Control Review Committee of the Department. Review and approval of an access break in established access control lines shall be required by the Access Control Review Committee. Refer to the State Access Management Manual for further clarification of the Access Control Review Procedures.

B. Access Control Review Committee:

(1) Purpose: The purpose of Access Control Review Committee is to review all access control requests by departmental Department staff members who have the expertise to identify issues that need to be resolved before access control limits are established or modified, or access breaks are recommended for approval.

(2) Authority: The Access Control Review Committee has authority to deny requested access control breaks for existing access control facilities. Access control breaks denied by the Committee may be appealed to the Secretary of Highways the New Mexico Department of Transportation or his/her designee.

(3) Quorum Definition: It shall be required that a simple majority of voting members of the committee, or their alternates, be in attendance for a quorum.

C. Operating Procedures:

(1) The two basic functions of the Access Control Review Committee are:

(a) To make recommendations to the Secretary, or his/her designee, on requests for establishing access control on new or existing state, federal and interstate highways; and,

(b) To make recommendations to the Secretary, or his/her designee, regarding requests for permanent breaks in existing access control lines on state, federal and interstate highways.

(2) The Committee shall have the authority to deny access control breaks. A denial by the eCommittee may be appealed to the Secretary, or his/her designee. Any access control breaks permitted shall, as a minimum, be in conformance with criteria contained in the most current edition of this rule, the Interstate Access Control Policy (CP 65), and any other applicable statutes, policies or procedures.

D. New or Modified Access Control Limits on State, Federal or Interstate Highways: Operating Procedures of the Access Control Review Committee for requests to establish access control on new highways or existing non-access controlled highways and procedures for modifying access control limits which shall include but not limited to shifting, extending or reducing on access-controlled highways shall be as follows. Refer to the State Access Management Manual for further clarification.

(1) A request for the establishment or modification of access control shall be received by the Chairperson from a NMSHTD of the Access Control Review Committee from a Department Project Development Engineer or from other government agencies. It shall be the responsibility of the requestor, whether representing the NMSHTD Department or other government agency, to provide a complete information/request package showing: Location, identified by stationing, distances and proposed right-of-way map; Specific Purpose, defined in a feasibility study or corridor study; and, Source of Funding, for all costs including engineering.

(2) The Chairperson shall request the Right of Way Manager Bureau Chief to review the right-of-way map(s) and request Lands Engineering to prepare a draft Administrative Determination prior to review and consideration by the Committee. The draft Administrative Determination should be reviewed by the Project Development Engineer, or requestor, and the Traffic Technical Support Engineer prior to review and consideration by the Committee.

(3) The Access Control Review Committee shall either recommend approval of the draft Administrative Determination as presented or recommend approval based upon eCommittee discussions and recommended modifications. The Access Control Review Committee may also recommend deferral of action on an Administrative Determination to a later meeting if additional information is required by the Committee for evaluation. If the Access Control Review Committee votes to recommend disapproval of a draft Administrative Determination, they shall provide specific reasons to the requestor for their recommendation.

(4) After the Administrative Determination has been recommended for approval by the Committee, it shall be sent to the Secretary, or his/her designee, for review and/or approval or disapproval. The request shall be sent to FHWA for approval if on a federal or interstate highway.
(5) If the request is disapproved by the Secretary or FHWA, it shall be sent back to the Chairperson of the Committee to inform the requestor of the disapproval.

(6) Once all approvals are obtained, the Chairperson shall send all documents to the office of record, which is the Right of Way Bureau Chief's office. The Right of Way Bureau Chief, or his/her designee, shall send a copy of the approved resolution to the owners of record of all affected properties.

E. Requests For Interstate Access Control Breaks: Requests for interstate access control breaks, which are requests for direct access to the interstate or requests that will have a major impact on the operation or function of the existing interchange, ramps, existing crossroad, etc., shall be handled as specified by applicable state and federal law, rules, regulations and procedures in Commission Policies and Administrative Memorandums.

F. Requests For Non-Interstate Access Control Breaks: Operating procedures of the Access Control Review Committee for requests for permanent access control breaks within the limits of existing access control rights-of-way on all federal or state highways (other than interstate) shall be as follows.

(1) A request for an access control break shall be received by the Chairperson from the Access Control Review Committee from a Departmental District Office, a Project Development Engineer, an Access Control Study Team, another governmental agency or from an individual from the public or a private firm. For requests that create major impacts (i.e., requires a new interchange or major modifications), it shall be the responsibility of the requestor to provide a complete feasibility study similar to that required for Interstate Access. For requests that may create intermediate impacts (i.e., require traffic signals, require intermediate geometric improvements, etc.), the requestor shall furnish a traffic engineering evaluation or other reports to determine if the requested access is feasible. For access requests that appear to be minor, the request shall be submitted to the Access Control Review Committee for processing.

(2) Once all pertinent information is received, the request shall be placed on the agenda for the next Access Control Review Committee Meeting. The Access Control Review Committee shall consider all pertinent data available concerning the request for a break in the existing access control line.

(3) The Access Control Review Committee shall recommend approval of the access control break as presented; or, recommend approval based upon the Committee's discussions and recommended modifications; or, recommend deferral if additional information is required; or, deny the request. The Committee may request that a specific report or feasibility study be conducted if after reviewing the request the Committee considers it to have major or intermediate impacts. If the Access Control Review Committee votes to deny an access control break, specific reasons for the denial shall be provided and a copy shall be sent to the Secretary, or his/her designee. A denial by the Committee may be appealed to the Secretary, or his/her designee.

(4) After the access control break (Administrative Determination) has been recommended for approval by the Committee, it shall be sent to the Secretary, or his/her designee, for review and approval or disapproval. After the Secretary, or his/her designee, approves an Administrative Determination for interstate access, the Secretary, or his/her designee, shall prepare a resolution amending the original access control for presentation to the Highway Commission. Highway Commission approval is only needed for requested breaks in interstate access-controlled rights-of-way. The Chairperson shall send a request for approval to FHWA for all interstate or federal highways. The request shall be sent to FHWA for approval if on a federal or interstate highway.

(5) Once all approvals are obtained, the Chairperson shall send all documents to the office of record, which is the Right of Way Bureau Chief's Office. The Right of Way Bureau Chief shall request the appropriate appraisal difference be paid back to the Department.

(6) Once all approvals have been obtained and the appraisal difference has been paid back to the Department, the access-controlled right-of-way becomes non-access controlled right-of-way and the Right of Way Bureau Chief, or his/her designee, informs the requestor and the respective District that the requests for access may proceed contingent on all Department requirements being met. The respective District shall be responsible for making sure all construction is completed in accordance with the Department's regulations and any requirements that were made by the Commission, the Department, or FHWA regarding the approval of the access control break.

G. Temporary Construction Access Breaks: Any requests for temporary construction access breaks for Department construction projects should be incorporated in roadway plans during their development. These requests should follow the format described in the access permit from C-196.

H. Temporary Access Breaks: Any request for a temporary access break, which is not related to a construction project, shall be submitted to the Access Control Review Committee for their review and/or approval. The temporary access break does not require an Administrative Determination or approval of the Secretary, but shall have FHWA approval if for a federal or interstate highway. If the Committee denies a temporary access break, it can be appealed to the Secretary, or his/her designee. If an appeal is approved by the Secretary, or his/her designee, the request must be forwarded to FHWA for their review and approval if for a federal or interstate highway.
1. **Access Control Recommendations by Other Government Agencies:**

   (1) All access control recommendations by other government agencies for federal or state highways shall be submitted to NMSHTD's the Departments Access Control Review Committee in compliance with 18.31.6.19 NMAC.

   (2) Any and all access control actions/recommendations (made by other governmental agencies) on federal or state highways which have not been approved according to the Access Control Review Procedures shall not be effective until acted on as set forth herein.


**HISTORY OF 18.31.6 NMAC:**

**Pre-NMAC History:**

Material in the part was derived from that previously filed with the State Records and Archives under:

SHTD Rule No. 89-1(L), Regulations for Driveways and Median Openings on Non-Access Controlled Highways, 6/9/1989.

**History of Repealed Material:**

18 NMAC 31.6, Requirements for Driveways and Median Openings on Non-Access Controlled Highways, 12/14/1998.


**Other History:**

Effective 10/15/2001, 18.31.6 NMAC, State Highway Access Management Requirements, replaced 18 NMAC 31.6, Requirements for Driveways and Median Openings on Non-Access Controlled Highways.

Tab 6b
Authorizing Resolution
Approving Alternate WIPP Route Use
Commission Brief

SUBJECT: Resolution agreeing to allow limited use of a negotiated, alternate Waste Isolation Pilot Plant (WIPP) route, allowing shipments to approach WIPP from the TX/NM border at Eunice.

[Hwy 176 to NM 18 to Hobbs South Bypass to US62/180 to the northern WIPP entrance]

PRESENTER: Loren Hatch

BACKGROUND:

Through the resolution, NMDOT will agree to the temporary use of a negotiated, alternate WIPP route requested by the US Department of Energy, Carlsbad Field Office (DOE-CBFO) for no more than 23 shipments entering NM at the TX/NM border at Eunice.

The proposed route begins at the TX/NM border entering NM on NM 176. The route proceeds west on NM 176 to the junction with NM 18, continuing north on NM 18 to the Hobbs South Bypass, turning west on the Hobbs South Bypass to US 62/180, west on US 62/180 to the WIPP North Access Road, terminating at the WIPP facility. This route is approximately 13 miles shorter than use of the previously approved negotiated alternate route from the TX/NM border to the WIPP facility, via the South Access Road.

The term of use would be from approval to December 31, 2017, or after the final shipment, whichever occurs first. Each shipment will require prior concurrence by both NMDOT District 2 Engineer and NMDOT Risk Management Director.

This resolution is a temporary use agreement based on the DOE-CBFO request to use this alternate route for a limited number of shipments from the Texas point of origin to the WIPP site. NMDOT and DOE-CBFO continue to discuss alternate routes to and around the WIPP site for the transportation of highway route control quantity shipments of transuranic materials for the remainder of the WIPP program, contingent on continued, appropriate levels of federal WIPP funding for maintenance of all New Mexico WIPP routes to the site.
ACTION: Staff requests the Commission discuss and approve DOE-CBFO’s requested temporary use of the negotiated, Hobbs Alternate WIPP route to accommodate shipments approaching the WIPP facility from the TX/NM border at Eunice.

June 20167
STATE OF NEW MEXICO

STATE TRANSPORTATION COMMISSION

RESOLUTION NO. 2017-__ (JUN)

NMDOT AGREEMENT CONCERNING
TEMPORARY, NEGOTIATED ALTERNATE SOUTHERN WIPP ROUTE

WHEREAS, on May 23, 2017, NMDOT received a request by the Department of Energy – Carlsbad Field Office (DOE-CBFO) to extend the term of State Transportation Commission (STC) Resolution No. 2016-05, as amended, to allow continued use of a temporary, negotiated alternate route allowing transuranic (TRU) waste shipments, highway route controlled quantity shipments of radioactive materials, originating at the Waste Control Specialists, L.L.C. (WCS) Andrews, Texas site to be delivered to the Waste Isolation Pilot Plant (WIPP); and

WHEREAS, DOE-CBFO was unable to complete the transport of the authorized shipments within the allotted timeframe of Resolution No. 2016-05 and requires additional time to schedule, coordinate, and prepare for the safe transport of the WCS materials to the WIPP site; and

WHEREAS, DOE-CBFO has revised the number of potential shipments from 11 to 23 as necessary to transport the WCS materials to the WIPP site; and

WHEREAS, DOE-CBFO proposes amending the negotiated alternate route approved for use in Resolution 2016-05 to create a revised negotiated, alternate route (the “Hobbs Alternate Route”), which is as follows:

With the point of origin at the WCS Andrews site, in Texas approximately 150 yards from the TX/NM border, proceeding west on NM 176 to the junction of NM 18, then traveling north on NM 18 to the Hobbs South Bypass to US 62/180, proceeding west on US 62/180 to the intersection with the WIPP North Access Road, then traveling south on the WIPP North Access Road and terminating at WIPP site, (see Attachment 1); and

WHEREAS, the Hobbs Alternate Route is 13 miles shorter than the negotiated alternate route approved for use by Resolution 2016-05, (the “Jal Alternate Route”); and

WHEREAS, the WIPP Program Coordinator confirmed both the New Mexico Department of Public Safety and New Mexico State Police agree to a waiver of in-route TRU shipment CVSA Level VI inspections at the border, based on location of the point of origin and the more stringent point of origin inspection protocols for each of the identified shipments; and

WHEREAS, the Radioactive and Hazardous Materials Act, NMSA 1978, §§ 74-4A-1 through 74-4A-14 (2003), provides exclusive authority to the STC to designate highway routes for the transportation of radioactive material; and
WHEREAS, DOE-CBFO requests the Hobbs Alternate Route, a temporary, negotiated alternative route, be established within New Mexico to allow the shipments access to the WIPP site pursuant to the controlling federal rules under the Code of Federal Regulations (CFR) Title 49, Section 397, and in accordance with the provisions of the Western Governors’ Association (WGA) WIPP Program Implementation Guide (WIPP-PIG); and

WHEREAS, 49 CFR 397.101 permits DOE-CBFO to operate over a route, other than a designated, preferred route, where there is only one practicable highway route available, and where such deviation complies with criteria minimizing radiological risk and mileage based upon an appropriate route analysis determining the level of radiological risk; and

WHEREAS, WIPP-PIG, Section 12, “Highway Routing of WIPP Shipments” provides, as an alternative to designating an alternate route pursuant to 49 CFR 397.103, that a state routing agency may determine an alternate WIPP shipment route through a negotiation process with DOE-CBFO, where such negotiated alternate route takes in to account the overall risk to the public, segment lengths, vehicle speeds, population, emergency response capabilities and other relevant factors and specific conditions with regard to WIPP shipments; and

WHEREAS, DOE-CBFO confirms that with respect to the proposed route, DOE-CBFO performed the route analysis required by the governing federal rule and the WGA WIPP-PIG; and

WHEREAS, the New Mexico State Transportation Commission and the NMDOT acknowledge DOE-CBFO’s relevant special expertise in this matter as well as its commitment to provide this technical, analytic assistance as part of its obligations to the State of New Mexico under the Memorandum of Agreement between the Western Governors and the U.S. Department of Energy concerning regional protocol for the safe transportation of transuranics to and from the Carlsbad WIPP site; and

WHEREAS, the need for the alternate route is both pressing and temporary, NMDOT concurs with DOE-CBFO assessment that the protocol adopted by the WGA was preferable, and best addressed the need for an alternate southern WIPP route; and

WHEREAS, as part of the negotiated alternate route agreement, DOE-CBFO will comply with any conditions related to the use of the temporary route should such be required by the New Mexico Department of Public Safety, Motor Transportation Division, or as further identified by the NMDOT; and

WHEREAS, in accordance with WIPP-PIG, Section 12, the temporary, negotiated Hobbs Alternate Route is effective upon notice to DOE-CBFO of the State Transportation Commission’s adoption of this Resolution, and will terminate on December 31, 2017, or after the 23rd shipment from the WCS, whichever occurs first.

NOW, THEREFORE, IT IS RESOLVED THAT THE NEW MEXICO STATE TRANSPORTATION COMMISSION approves the NMDOT-DOE agreement concerning a temporary, negotiated alternate southern WIPP route, identified as the Hobbs Alternate Route, for use by DOE for no more than 23 TRU shipments from the WCS site in Andrews, Texas to the WIPP facility; and
IT IS FURTHER RESOLVED, that the use of the Hobbs Alternate Route is conditioned on DOE-CBFO performance of any and all arrangements related to the transportation of transuranics along the route as may be required by the New Mexico Department of Public Safety, Motor Transportation Division or by the NMDOT, including but not limited to prior approval by the NMDOT District 2 Engineer and NMDOT Risk Management Director; and

IT IS FURTHER RESOLVED, that the temporary, negotiated alternate route is immediately effective and shall terminate after the 23rd shipment or on December 31, 2017, whichever occurs first.

ADOPTED BY THE STATE TRANSPORTATION COMMISSION IN OPEN MEETING ON JUNE 13, 2017.

Ronald Schmeits, Chairman
District 4

Butch Mathews, Vice-Chairman
District 5

Dr. Kenneth White, Secretary
District 1

David Sepich, Commissioner
District 2

Keith Mortensen, Commissioner
District 3

Jackson Gibson, Commissioner
District 6
Tab 6c
Parameters
Resolution
Authorizing Bond
Refunding
Commission Brief

SUBJECT: Parameters Resolution Authorizing Bond Refunding

PRESENTER: Marcos Trujillo, Project Oversight Division, NMDOT

BACKGROUND:

ACTION: Action
### New Mexico DOT Variable Rate Portfolio Summary

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### New Mexico DOT Swap Portfolio Overview

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<th>Effective Date</th>
<th>Termination Date</th>
<th>Bank Counterparty</th>
<th>Notional Outstanding</th>
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STATE OF NEW MEXICO
STATE TRANSPORTATION COMMISSION
RESOLUTION NO. 2017-__ (JUN)

A RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE
BY THE NEW MEXICO FINANCE AUTHORITY OF ONE OR MORE
SERIES OF STATE TRANSPORTATION REVENUE REFUNDING
BONDS FOR THE PURPOSE OF REFUNDING TRANSPORTATION
REVENUE BONDS PREVIOUSLY ISSUED BY THE NEW MEXICO
FINANCE AUTHORITY AND THE STATE TRANSPORTATION
COMMISSION AND PAYING TERMINATION PAYMENTS
ASSOCIATED THERewith, SUBJECT TO SATISFYING SPECIFIED
PARAMETERS; AUTHORIZING THE CHAIRMAN OF THE
COMMISSION TO APPROVE THE FINAL TERMS OF ANY STATE
TRANSPORTATION REFUNDING REVENUE BONDS ISSUED
PURSUANT TO THIS RESOLUTION; AUTHORIZING THE
CHAIRMAN OF THE COMMISSION AND THE SECRETARY OF THE
DEPARTMENT OF TRANSPORTATION TO EXECUTE
AGREEMENTS AND CLOSING CERTIFICATES IN CONNECTION
WITH SUCH BONDS; AUTHORIZING THE TAKING OF ALL OTHER
ACTIONS NECESSARY TO THE CONSUMMATION OF THE
TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION;
RATIFYING PRIOR ACTIONS CONSISTENT WITH THIS
RESOLUTION AND REPEALING PRIOR INCONSISTENT ACTIONS.

WHEREAS, the State Transportation Commission (the “Commission”) of the State of
New Mexico (the “State”) was created under Article V, Section 14 of the New Mexico State
Constitution; and

WHEREAS, pursuant to the provisions of Chapter 3, Laws 2003, adopted during the First
Special Session of the Legislature in 2003, codified in Sections 67-3-59.1, .2, .3 and .4, NMSA
1978, as amended (the “GRIP Financing Legislation”), the Commission is authorized to direct
the issuance of state transportation refunding revenue bonds (the “State Transportation
Refunding Revenue Bonds”) by the New Mexico Finance Authority (the “NMFA”) from time to
time, payable from Federal Revenues (as defined in the Master Indenture referred to below) and
State Revenues (also as defined in the Master Indenture referred to below) (collectively, the
“Pledged Revenues”), in order to provide funds to refund outstanding bonds issued by the
Commission; and

WHEREAS, pursuant to the GRIP Financing Legislation the NMFA, as directed and
authorized by the Commission, has previously issued its State Transportation Refunding
Revenue Bonds (Subordinate Lien), 2008A-1 (the “2008A-1 Bonds”), State Transportation
Refunding Revenue Bonds (Subordinate Lien), 2008B-1 (the “2008B-1 Bonds”), its State
Transportation Refunding Revenue Bonds (Subordinate Lien), Series 2011A-1 (the “2011A-1
Bonds”), its State Transportation Refunding Revenue Bonds (Subordinate Lien), Series 2011A-2
WHEREAS, the 2008A-1 Bonds, the 2008B-1 Bonds, the 2011A-1 Bonds, the 2011A-2 Bonds and the 2011A-3 Bonds (collectively, the “Variable Rate Bonds”) bear interest at variable rates and are outstanding in a principal amount of $420,000,000; and

WHEREAS, NMFA and the Department of Transportation (the “Department”) executed certain interest rate exchange agreements (the “Swap Agreements”) to hedge interest rate exposure on the Variable Rate Bonds; and

WHEREAS, the Swap Agreements have certain payments associated with them if they are terminated before their expiration dates (the “Termination Payments”); and

WHEREAS, pursuant to Section 26 of the GRIP Financing Legislation, codified in Section 67-3-59.4, NMSA 1978, as amended, the Commission is directing and authorizing the NMFA to issue State Transportation Refunding Revenue Bonds in an aggregate principal amount not to exceed $300,000,000 on or before December 15, 2017 (the “2017 Refunding Bonds”) to refund some or all of the Variable Rate Bonds and fund any Termination Payments due and owing, subject to certain parameters set out below; and

WHEREAS, the Commission anticipates that the 2017 Fixed Rate Refunding Revenue Bonds will be issued as fixed rate bonds; and

WHEREAS, the Commission desires to authorize the Chairman of the Commission to approve the final terms of the 2017 Refunding Bonds consistent with the parameters set forth in this Resolution; and

WHEREAS, the Commission desires to authorize the Chairman of the Commission and the Secretary of the Department to make certain representations and to enter into certain agreements on behalf of, respectively, the Commission and the Department in connection with the 2017 Refunding Bonds and to execute certain agreements and certificates necessary, appropriate or convenient in connection with the issuance, sale and delivery of the 2017 Refunding Bonds.

NOW, THEREFORE, IT IS RESOLVED BY THE STATE TRANSPORTATION COMMISSION:

Section 1. Determinations as to 2017 Refunding Bonds.

The Commission hereby determines that the Variable Rate Bonds should be refunded in one or more series of refunding bonds if the issuance meets the parameters set forth in Section 2 below. The Commission further determines that issuance of the 2017 Refunding Bonds and payment of the Termination Payments is necessary to protect the public health, conserve the property of, and protect the general welfare and prosperity of the citizens of the State. Subject to satisfaction of the parameters set forth in Section 2 below, the NMFA is hereby directed to refund a portion of the Variable Rate Bonds through the issuance of one or more series of 2017 Refunding Bonds on or before December 15, 2017, with a minimum issue size of at least $100,000,000 and an aggregate
maximum size of all series not to exceed $300,000,000, pursuant to the Master Indenture relating to the Department’s bonds (the “Master Indenture”) and one or more Series Indentures, to be secured by and payable from the Pledged Revenues (as defined in the Master Indenture).


(a) For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the citizens of the State, it is declared necessary that the NMFA issue the 2017 Refunding Bonds pursuant to the Master Indenture and one or more Series Indentures in one or more series with a minimum issue size of at least $100,000,000 and an aggregate maximum size of all series not to exceed $300,000,000. Each series of the 2017 Refunding Bonds shall mature on the dates (no later than December 15, 2040) and in the amounts, bear interest at the rate or rates (not to exceed 5.5% per annum), and be subject to optional and mandatory sinking fund redemption prior to their maturities on the dates and at the prices set forth in one or more Sale Resolutions adopted by the NMFA on or prior to the sale date of the related series of the 2017 Refunding Bonds. The NMFA Sale Resolution or Resolutions shall provide for the creation of funds and accounts (including any reserve fund deemed advisable by the NMFA), and for protective covenants and additional terms and conditions deemed advisable by the NMFA in connection with the marketing of the 2017 Refunding Bonds. The 2017 Refunding Bonds may be issued as Senior Lien Obligations or Subordinate Lien Obligations under the Master Indenture.

(b) No maturity of any of the Variable Rate Bonds shall be refunded, and no 2017 Refunding Bonds shall be issued to refund any maturity of the Variable Rate Bonds, unless, on the date of pricing of the 2017 Refunding Bonds, refunding such maturity shall result in a useful life of the Refunding Bonds that does not exceed the life of the projects funded by the Variable Rate Bonds. Subject to these parameters, the NMFA, in consultation with the Department, shall determine the amounts and maturities of the Variable Rate Bonds and the 2017 Refunding Bonds.

Section 3. Delegation to Chairman of the Commission.

The Chairman, or in the absence of the Chairman, the Vice-Chairman, is hereby authorized and directed to approve the final terms of the 2017 Refunding Bonds, subject to the satisfaction of the parameters set forth in Section 2.

Section 4. Continuing Assistance in Implementation of State Transportation Revenue Bonds.

The Department is hereby directed to provide assistance to the Financial Advisor (as defined in the Series Indenture providing for the issuance of any of the 2017 Refunding Bonds) and the NMFA in structuring and approving the issuance and sale of the 2017 Refunding Bonds, executing and delivering, without limitation, the following agreements and certifications relating to the 2017 Refunding Bonds and use of Bond proceeds, which shall be delivered at the closing or delivery of the 2017 Refunding Bonds: tax compliance certificates, general and no litigation certificates, certificates
concerning the accuracy of information included in the Preliminary Official Statement and the Official Statement for the 2017 Refunding Bonds, continuing disclosure agreements, bond purchase agreements, redemption notices and escrow agreements related to the Variable Rate Bonds, and such other agreements and certificates as the NMFA, the Financial Advisor, the underwriters, bond counsel, underwriters’ counsel, disclosure counsel, the Commission’s counsel, the Commission’s bond counsel or issuer’s counsel may request. The officers, employees and agents of the Commission and the Department are authorized and directed to execute and deliver all such documents and certificates and are directed to provide all documents and other information requested by the NMFA or its officers, employees and agents related to the administration and management of the State Transportation Revenue Bonds.

Section 5. Ratification of Prior Actions Taken by the Commission and the NMFA; Inconsistent Actions Superseded.

Prior actions of the Commission, the Department and the NMFA consistent with this Resolution are hereby ratified and approved. All acts, orders, resolutions, or parts thereof, of the Commission that are inconsistent or in conflict with this Resolution are hereby superseded to the extent only of such inconsistency or conflict.

Section 6. Effective Date. The provisions of this Resolution shall become effective immediately upon its adoption and approval.

[Signature page follows]
ADOPTED IN OPEN MEETING BY THE STATE TRANSPORTATION COMMISSION ON JUNE 13, 2017.

____________________________________
Ronald L. Schmeits, Chairperson

____________________________________
Kenneth R. White, Commissioner

____________________________________
David Sepich, Commissioner

____________________________________
Butch Mathews, Commissioner

____________________________________
Jackson Gibson, Commissioner

____________________________________
Keith Mortensen, Commissioner

ATTEST: ____________________________
Secretary
CERTIFICATE REGARDING RESOLUTION
OF THE NEW MEXICO STATE TRANSPORTATION COMMISSION

I, the undersigned, Ronald L. Schmeits, Chairperson of the New Mexico State Transportation Commission (the “Commission”), DO HEREBY CERTIFY that: (i) the annexed Resolution was duly adopted by the members of the Commission at a meeting thereof duly called and held on June 13, 2017, at which meeting a quorum was present and acting throughout; (ii) the annexed Resolution has been compared by me with the original thereof recorded in the minute books of the Commission and is a correct transcript therefrom and of the whole of said original; (iii) the annexed Resolution has not been altered, amended or repealed; and (iv) the annexed Resolution is in full force and effect on the date of this Certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of June, 2017.

__________________________________________
Ronald L. Schmeits, Chairperson
New Mexico State Transportation Commission
Tab 7a
Approval of Final Rulemaking Action Regarding Proposed Amendments to NMDOT Rule 18.31.6 NMAC, State Highway Access Management Requirements
Commission Brief

SUBJECT: Final rulemaking action regarding proposed amendments to NMDOT rule 18.31.6 NMAC, State Highway Access Management Requirements.

Pursuant to the provisions of Commission Policy 4 (CP 4), final rulemaking action for a proposed rule requires that the Secretary of Transportation or designee, following the public hearing(s) on the proposed rule action, prepare and present to the STC a final rule action report and recommendation together with the final iteration of the proposed rule. The STC may thereafter question the Secretary or designee regarding the report and recommendation and take any action it deems appropriate. After the STC adopts the proposed rule action, with whatever alterations it deems appropriate, the rule will be filed with the New Mexico Commission of Public Records, State Records Center and Archives on or before June 15, 2017 and published in the New Mexico Register on June 27, 2017.

PRESENTER: Rick Padilla, P.E., State Maintenance Manager

REFERENCE DOCUMENTS: Proposed amended NMDOT rule 18.31.6 NMAC, State Highway Access Management Requirements and final rule action report and recommendation.

BACKGROUND: Pursuant to NMSA 1978, Section 67-11-2, the STC is “authorized and directed to do those things essential to plan, acquire by reasonable purchase or condemnation and construct a section or a part of a state or federally designated highway as a freeway or controlled-access highway or to make any existing state or federally designated highway a freeway or a controlled-access highway.” Further, under NMSA 1978, Section 67-3-6, NMDOT is authorized to exercise the power, authority and duty granted to the STC, and, therefore, may prescribe rules and regulations for providing access to state highways pursuant to NMSA 1978, Chapter 67.
The purpose of the proposed amendments are to (1) add provisions that clarify the authority of the STC to approve all access control changes in addition to requested breaks in interstate access controlled rights of way; and (2) make certain other technical updates to the rule to bring it into compliance with current standards.

Because the rule, when finalized, will directly affect the substantive rights of NMDOT and individuals outside NMDOT by the imposition of certain requirements on both, the STC’s approval was required to initiate the rulemaking process. Said approval was granted on December 4, 2014. NMDOT has taken all of the requisite steps in the rulemaking process to promulgate the rule, including conducting a public hearing for the purpose of receiving oral and written public comment on the proposed amendments to the rule. Pursuant to the provisions of CP 4, NMDOT is now seeking the STC’s final approval of the proposed rule prior to publishing.

**ACTION:** Staff recommends that the STC authorize NMDOT to complete rulemaking action regarding proposed amendments to NMDOT rule 18.31.6 NMAC, State Highway Access Management Requirements.

June 6, 2017
Intra-Departmental Correspondence

Date: June 7, 2017

To: Tom Church
Secretary of Transportation

From: Andrew Gallegos
NMDOT Traffic Operations Engineer

Subject: Final Rule Action Report Regarding Proposed Amendments to NMDOT Rule, 18.31.6 NMAC - State Access Management Requirements

At its regular meeting on December 4, 2014, the New Mexico State Transportation Commission (STC) passed a motion to initiate action to amend NMDOT Rule, 18.31.6 NMAC - State Access Management Requirements.

The purpose of the amendments are to (1) add provisions that clarify the authority of the STC to approve all access control changes in addition to requested breaks in interstate access controlled rights of way; and (2) make certain other technical updates to the rule to bring it into compliance with current standards.

Pursuant to NMSA 1978, Section 67-11-2, the STC is "authorized and directed to do those things essential to plan, acquire by reasonable purchase or condemnation and construct a section or a part of a state or federally designated highway as a freeway or controlled-access highway or to make any existing state or federally designated highway a freeway or a controlled-access highway." Further, under NMSA 1978, Section 67-3-6, NMDOT is authorized to exercise the power, authority and duty granted to the STC, and, therefore, may prescribe rules and regulations for providing access to state highways pursuant to NMSA 1978, Chapter 67.

By correspondence dated September 28, 2016, a copy of which is attached hereto as Exhibit "A", I was appointed by you, as the Secretary of Transportation, to serve as a hearing officer and to conduct a public hearing for the purpose of receiving oral or written public comment on the proposed rule amendments. In accordance with the provisions of Commission Policy 4, New Mexico State Transportation Commission Rules and Policies (CP 4), I have prepared this report, which shall serve as NMDOT's final rule action report and recommendation to the STC.

A Notice of Public Hearing ("Notice") on the proposed rule amendments, advising interested parties
of the scheduled hearing date of December 8, 2016, was published in the New Mexico Register and on NMDOT’s public notices web page ([http://dot.state.nm.us/content/nmdot/en/public-notices.html](http://dot.state.nm.us/content/nmdot/en/public-notices.html)) on October 31, 2016, as well as in the three following general circulation newspapers required per CP 4:

<table>
<thead>
<tr>
<th>Publication Name</th>
<th>Date of Publication</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Santa Fe New Mexican</td>
<td>October 31, 2016</td>
</tr>
<tr>
<td>Albuquerque Journal</td>
<td>October 31, 2016</td>
</tr>
<tr>
<td>Las Cruces Sun News</td>
<td>October 31, 2016</td>
</tr>
</tbody>
</table>

A copy of the Notice, as published, is appended hereto as Exhibit “B”. Copies of the affidavits confirming publication of the Notice in the New Mexico Register and the three above listed general circulation newspapers are attached hereto as Exhibit “C”, and a copy of NMDOT’s public notices web page displaying the Notice, as posted, showing the web page address and date of publication at the bottom is appended hereto as Exhibit “D”.

The public comment hearing was held on December 8, 2016 from 1:00 p.m. to 4:00 p.m. in Training Rooms 1 and 2 at the NMDOT General Office, 1120 Cerrillos Road, Santa Fe, New Mexico. Only two interested parties attended the public comment hearing, both of whom stated their support for the proposed amendments to the rule. However, both expressed concern about what they perceived as the lack of an established deadline by which NMDOT must review and approve a Traffic Impact Analysis (TIA) and requested the State Access Management Manual (Samm) be amended concurrently with the rule. In response, NMDOT representatives explained that the rule does, in fact, include the subject deadline, but that it is tied to the requirement that developers or consultants address any comments provided by NMDOT in any TIA submitted in connection with the proposed access. NMDOT representatives also explained that it would be more practical to modify the Samm after the rule amendments are adopted because although the amendments impact the Samm, changes to the Samm do not necessitate amendments to the rule. Both parties concurred and remained supportive of the rule amendments. Based on such concurrence and the fact that the NMDOT State Maintenance Bureau did not receive any oral or written comments from any other interested parties, there will be no additional modifications to the rule. Copies of a written record of the proceedings (transcript prepared by Bean & Associates, Inc.) and the hearing sign-in sheet are appended hereto as Exhibits “E” and “F”, respectively.

Attached hereto for your review and approval, as Exhibit “G”, is a copy NMDOT’s final proposed rule, 18.31.6 NMAC - State Access Management Requirements, as amended. Also appended for your reference, as Exhibit “H”, is a copy of a redline version of the proposed rule which shows all proposed amendments in redline.

Attachments

cc: Loren Hatch, General Counsel
    Kenneth Baca, Deputy General Counsel
    William Moyers, Assistant General Counsel
    Rick Padilla, State Maintenance Manager
    Stephanie Nemett
Approved:

Tom Church  
Secretary of Transportation

7 June 2017  
Date
Tab 7b
Approval of Authorizing Resolution
Approving Alternate WIPP Route Use
Commission Brief

SUBJECT: Resolution agreeing to allow limited use of a negotiated, alternate Waste Isolation Pilot Plant (WIPP) route, allowing shipments to approach WIPP from the TX/NM border at Eunice.

[Hwy 176 to NM 18 to Hobbs South Bypass to US62/180 to the northern WIPP entrance]

PRESENTER: Loren Hatch

BACKGROUND:

Through the resolution, NMDOT will agree to the temporary use of a negotiated, alternate WIPP route requested by the US Department of Energy, Carlsbad Field Office (DOE-CBFO) for no more than 23 shipments entering NM at the TX/NM border at Eunice.

The proposed route begins at the TX/NM border entering NM on NM 176. The route proceeds west on NM 176 to the junction with NM 18, continuing north on NM 18 to the Hobbs South Bypass, turning west on the Hobbs South Bypass to US 62/180, west on US 62/180 to the WIPP North Access Road, terminating at the WIPP facility. This route is approximately 13 miles shorter than use of the previously approved negotiated alternate route from the TX/NM border to the WIPP facility, via the South Access Road.

The term of use would be from approval to December 31, 2017, or after the final shipment, whichever occurs first. Each shipment will require prior concurrence by both NMDOT District 2 Engineer and NMDOT Risk Management Director.

This resolution is a temporary use agreement based on the DOE-CBFO request to use this alternate route for a limited number of shipments from the Texas point of origin to the WIPP site. NMDOT and DOE-CBFO continue to discuss alternate routes to and around the WIPP site for the transportation of highway route control quantity shipments of transuranic materials for the remainder of the WIPP program, contingent on continued, appropriate levels of federal WIPP funding for maintenance of all New Mexico WIPP routes to the site.
ACTION: Staff requests the Commission discuss and approve DOE-CBFO's requested temporary use of the negotiated, Hobbs Alternate WIPP route to accommodate shipments approaching the WIPP facility from the TX/NM border at Eunice.

June 20167
WHEREAS, on May 23, 2017, NMDOT received a request by the Department of Energy – Carlsbad Field Office (DOE-CBFO) to extend the term of State Transportation Commission (STC) Resolution No. 2016-05, as amended, to allow continued use of a temporary, negotiated alternate route allowing transuranic (TRU) waste shipments, highway route controlled quantity shipments of radioactive materials, originating at the Waste Control Specialists, L.L.C. (WCS) Andrews, Texas site to be delivered to the Waste Isolation Pilot Plant (WIPP); and

WHEREAS, DOE-CBFO was unable to complete the transport of the authorized shipments within the allotted timeframe of Resolution No. 2016-05 and requires additional time to schedule, coordinate, and prepare for the safe transport of the WCS materials to the WIPP site; and

WHEREAS, DOE-CBFO has revised the number of potential shipments from 11 to 23 as necessary to transport the WCS materials to the WIPP site; and

WHEREAS, DOE-CBFO proposes amending the negotiated alternate route approved for use in Resolution 2016-05 to create a revised negotiated, alternate route (the “Hobbs Alternate Route”), which is as follows:

With the point of origin at the WCS Andrews site, in Texas approximately 150 yards from the TX/NM border, proceeding west on NM 176 to the junction of NM 18, then traveling north on NM 18 to the Hobbs South Bypass to US 62/180, proceeding west on US 62/180 to the intersection with the WIPP North Access Road, then traveling south on the WIPP North Access Road and terminating at WIPP site, (see Attachment 1); and

WHEREAS, the Hobbs Alternate Route is 13 miles shorter than the negotiated alternate route approved for use by Resolution 2016-05, (the “Jal Alternate Route”); and

WHEREAS, the WIPP Program Coordinator confirmed both the New Mexico Department of Public Safety and New Mexico State Police agree to a waiver of in-route TRU shipment CVSA Level VI inspections at the border, based on location of the point of origin and the more stringent point of origin inspection protocols for each of the identified shipments; and

WHEREAS, the Radioactive and Hazardous Materials Act, NMSA 1978, §§ 74-4A-1 through 74-4A-14 (2003), provides exclusive authority to the STC to designate highway routes for the transportation of radioactive material; and
WHEREAS, DOE-CBFO requests the Hobbs Alternate Route, a temporary, negotiated alternative route, be established within New Mexico to allow the shipments access to the WIPP site pursuant to the controlling federal rules under the Code of Federal Regulations (CFR) Title 49, Section 397, and in accordance with the provisions of the Western Governors’ Association (WGA) WIPP Program Implementation Guide (WIPP-PIG); and

WHEREAS, 49 CFR 397.101 permits DOE-CBFO to operate over a route, other than a designated, preferred route, where there is only one practicable highway route available, and where such deviation complies with criteria minimizing radiological risk and mileage based upon an appropriate route analysis determining the level of radiological risk; and

WHEREAS, WIPP-PIG, Section 12, “Highway Routing of WIPP Shipments” provides, as an alternative to designating an alternate route pursuant to 49 CFR 397.103, that a state routing agency may determine an alternate WIPP shipment route through a negotiation process with DOE-CBFO, where such negotiated alternate route takes in to account the overall risk to the public, segment lengths, vehicle speeds, population, emergency response capabilities and other relevant factors and specific conditions with regard to WIPP shipments; and

WHEREAS, DOE-CBFO confirms that with respect to the proposed route, DOE-CBFO performed the route analysis required by the governing federal rule and the WGA WIPP-PIG; and

WHEREAS, the New Mexico State Transportation Commission and the NMDOT acknowledge DOE-CBFO’s relevant special expertise in this matter as well as its commitment to provide this technical, analytic assistance as part of its obligations to the State of New Mexico under the Memorandum of Agreement between the Western Governors and the U.S. Department of Energy concerning regional protocol for the safe transportation of transuranics to and from the Carlsbad WIPP site; and

WHEREAS, the need for the alternate route is both pressing and temporary, NMDOT concurs with DOE-CBFO assessment that the protocol adopted by the WGA was preferable, and best addressed the need for an alternate southern WIPP route; and

WHEREAS, as part of the negotiated alternate route agreement, DOE-CBFO will comply with any conditions related to the use of the temporary route should such be required by the New Mexico Department of Public Safety, Motor Transportation Division, or as further identified by the NMDOT; and

WHEREAS, in accordance with WIPP-PIG, Section 12, the temporary, negotiated Hobbs Alternate Route is effective upon notice to DOE-CBFO of the State Transportation Commission’s adoption of this Resolution, and will terminate on December 31, 2017, or after the 23rd shipment from the WCS, whichever occurs first.

NOW, THEREFORE, IT IS RESOLVED THAT THE NEW MEXICO STATE TRANSPORTATION COMMISSION approves the NMDOT-DOE agreement concerning a temporary, negotiated alternate southern WIPP route, identified as the Hobbs Alternate Route, for use by DOE for no more than 23 TRU shipments from the WCS site in Andrews, Texas to the WIPP facility; and
IT IS FURTHER RESOLVED, that the use of the Hobbs Alternate Route is conditioned on DOE-CBFO performance of any and all arrangements related to the transportation of transuranics along the route as may be required by the New Mexico Department of Public Safety, Motor Transportation Division or by the NMDOT, including but not limited to prior approval by the NMDOT District 2 Engineer and NMDOT Risk Management Director; and

IT IS FURTHER RESOLVED, that the temporary, negotiated alternate route is immediately effective and shall terminate after the 23rd shipment or on December 31, 2017, whichever occurs first.

ADOPTED BY THE STATE TRANSPORTATION COMMISSION IN OPEN MEETING ON JUNE 13, 2017.

Ronald Schmeits, Chairman
District 4

Butch Mathews, Vice-Chairman
District 5

Dr. Kenneth White, Secretary
District 1

David Sepich, Commissioner
District 2

Keith Mortensen, Commissioner
District 3

Jackson Gibson, Commissioner
District 6
Approval of Proposed Final Rule to Amend or Repeal and Replace Rule 18.28.3 NMAC, Transportation & Highways, Highway Contracting and Bidding, Selection of Committee for Qualifications Based Proposals
Commission Brief

SUBJECT: Special Commission meeting following the hearing on the proposed rule to amend or repeal and replace rule 18.28.3 NMAC (New Mexico Administrative Code), Transportation and Highways, Highway Contracting and Bidding, Selection of Committee for Qualifications Based Proposals.

PRESENTER: Armando M. Armendariz

BACKGROUND: The rule has been advertised for public comment. The public hearing notice was advertised on 4-25-17 in accordance with CP-4 and the requirements for State Records and Archives. At a regular or special Commission meeting following the hearing on the proposed rule, the Secretary or designee shall present to the STC a final rule action report and recommendation together with the final iteration of the proposed rule. The STC may question the Secretary or designee regarding the report and recommendation and take any action it deems appropriate.
ACTION: Staff requests approval of a special meeting in June of 2017 to address proposed final rule making action.
Tab 7d
Approval of Parameters
Resolution
Authorizing Bond Refunding
Commission Brief

SUBJECT: Parameters Resolution Authorizing Bond Refunding

PRESENTER: Marcos Trujillo, Project Oversight Division, NMDOT

BACKGROUND:

ACTION: Action
A RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE BY THE NEW MEXICO FINANCE AUTHORITY OF ONE OR MORE SERIES OF STATE TRANSPORTATION REVENUE REFUNDING BONDS FOR THE PURPOSE OF REFUNDING TRANSPORTATION REVENUE BONDS PREVIOUSLY ISSUED BY THE NEW MEXICO FINANCE AUTHORITY AND THE STATE TRANSPORTATION COMMISSION AND PAYING TERMINATION PAYMENTS ASSOCIATED THEREWITH, SUBJECT TO SATISFYING SPECIFIED PARAMETERS; AUTHORIZING THE CHAIRMAN OF THE COMMISSION TO APPROVE THE FINAL TERMS OF ANY STATE TRANSPORTATION REFUNDING REVENUE BONDS ISSUED PURSUANT TO THIS RESOLUTION; AUTHORIZING THE CHAIRMAN OF THE COMMISSION AND THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION TO EXECUTE AGREEMENTS AND CLOSING CERTIFICATES IN CONNECTION WITH SUCH BONDS; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION; RATIFYING PRIOR ACTIONS CONSISTENT WITH THIS RESOLUTION AND REPEALING PRIOR INCONSISTENT ACTIONS.

WHEREAS, the State Transportation Commission (the “Commission”) of the State of New Mexico (the “State”) was created under Article V, Section 14 of the New Mexico State Constitution; and

WHEREAS, pursuant to the provisions of Chapter 3, Laws 2003, adopted during the First Special Session of the Legislature in 2003, codified in Sections 67-3-59.1, .2, .3 and .4, NMSA 1978, as amended (the “GRIP Financing Legislation”), the Commission is authorized to direct the issuance of state transportation refunding revenue bonds (the “State Transportation Refunding Revenue Bonds”) by the New Mexico Finance Authority (the “NMFA”) from time to time, payable from Federal Revenues (as defined in the Master Indenture referred to below) and State Revenues (also as defined in the Master Indenture referred to below) (collectively, the “Pledged Revenues”), in order to provide funds to refund outstanding bonds issued by the Commission; and

WHEREAS, pursuant to the GRIP Financing Legislation the NMFA, as directed and authorized by the Commission, has previously issued its State Transportation Refunding Revenue Bonds (Subordinate Lien), 2008A-1 (the “2008A-1 Bonds”), State Transportation Refunding Revenue Bonds (Subordinate Lien), 2008B-1 (the “2008B-1 Bonds”), its State Transportation Refunding Revenue Bonds (Subordinate Lien), Series 2011A-1 (the “2011A-1 Bonds”), its State Transportation Refunding Revenue Bonds (Subordinate Lien), Series 2011A-
WHEREAS, the 2008A-1 Bonds, the 2008B-1 Bonds, the 2011A-1 Bonds, the 2011A-2 Bonds and the 2011A-3 Bonds (collectively, the “Variable Rate Bonds”) bear interest at variable rates and are outstanding in a principal amount of $420,000,000; and

WHEREAS, NMFA and the Department of Transportation (the “Department”) executed certain interest rate exchange agreements (the “Swap Agreements”) to hedge interest rate exposure on the Variable Rate Bonds; and

WHEREAS, the Swap Agreements have certain payments associated with them if they are terminated before their expiration dates (the “Termination Payments”); and

WHEREAS, pursuant to Section 26 of the GRIP Financing Legislation, codified in Section 67-3-59.4, NMSA 1978, as amended, the Commission is directing and authorizing the NMFA to issue State Transportation Refunding Revenue Bonds in an aggregate principal amount not to exceed $300,000,000 on or before December 15, 2017 (the “2017 Refunding Bonds”) to refund some or all of the Variable Rate Bonds and fund any Termination Payments due and owing, subject to certain parameters set out below; and

WHEREAS, the Commission anticipates that the 2017 Fixed Rate Refunding Revenue Bonds will be issued as fixed rate bonds; and

WHEREAS, the Commission desires to authorize the Chairman of the Commission to approve the final terms of the 2017 Refunding Bonds consistent with the parameters set forth in this Resolution; and

WHEREAS, the Commission desires to authorize the Chairman of the Commission and the Secretary of the Department to make certain representations and to enter into certain agreements on behalf of, respectively, the Commission and the Department in connection with the 2017 Refunding Bonds and to execute certain agreements and certificates necessary, appropriate or convenient in connection with the issuance, sale and delivery of the 2017 Refunding Bonds.

NOW, THEREFORE, IT IS RESOLVED BY THE STATE TRANSPORTATION COMMISSION:

Section 1. Determinations as to 2017 Refunding Bonds.

The Commission hereby determines that the Variable Rate Bonds should be refunded in one or more series of refunding bonds if the issuance meets the parameters set forth in Section 2 below. The Commission further determines that issuance of the 2017 Refunding Bonds and payment of the Termination Payments is necessary to protect the public health, conserve the property of, and protect the general welfare and prosperity of the citizens of the State. Subject to satisfaction of the parameters set forth in Section 2 below, the NMFA is hereby directed to refund a portion of the Variable Rate Bonds through the issuance of one or more series of 2017 Refunding Bonds on or before December 15, 2017, with a minimum issue size of at least $100,000,000 and an aggregate
maximum size of all series not to exceed $300,000,000, pursuant to the Master Indenture relating to the Department’s bonds (the “Master Indenture”) and one or more Series Indentures, to be secured by and payable from the Pledged Revenues (as defined in the Master Indenture).


(a) For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the citizens of the State, it is declared necessary that the NMFA issue the 2017 Refunding Bonds pursuant to the Master Indenture and one or more Series Indentures in one or more series with a minimum issue size of at least $100,000,000 and an aggregate maximum size of all series not to exceed $300,000,000. Each series of the 2017 Refunding Bonds shall mature on the dates (no later than December 15, 2040) and in the amounts, bear interest at the rate or rates (not to exceed 5.5% per annum), and be subject to optional and mandatory sinking fund redemption prior to their maturities on the dates and at the prices set forth in one or more Sale Resolutions adopted by the NMFA on or prior to the sale date of the related series of the 2017 Refunding Bonds. The NMFA Sale Resolution or Resolutions shall provide for the creation of funds and accounts (including any reserve fund deemed advisable by the NMFA), and for protective covenants and additional terms and conditions deemed advisable by the NMFA in connection with the marketing of the 2017 Refunding Bonds. The 2017 Refunding Bonds may be issued as Senior Lien Obligations or Subordinate Lien Obligations under the Master Indenture.

(b) No maturity of any of the Variable Rate Bonds shall be refunded, and no 2017 Refunding Bonds shall be issued to refund any maturity of the Variable Rate Bonds, unless, on the date of pricing of the 2017 Refunding Bonds, refunding such maturity shall result in a useful life of the Refunding Bonds that does not exceed the life of the projects funded by the Variable Rate Bonds. Subject to these parameters, the NMFA, in consultation with the Department, shall determine the amounts and maturities of the Variable Rate Bonds and the 2017 Refunding Bonds.

Section 3. Delegation to Chairman of the Commission.

The Chairman, or in the absence of the Chairman, the Vice-Chairman, is hereby authorized and directed to approve the final terms of the 2017 Refunding Bonds, subject to the satisfaction of the parameters set forth in Section 2.

Section 4. Continuing Assistance in Implementation of State Transportation Revenue Bonds.

The Department is hereby directed to provide assistance to the Financial Advisor (as defined in the Series Indenture providing for the issuance of any of the 2017 Refunding Bonds) and the NMFA in structuring and approving the issuance and sale of the 2017 Refunding Bonds, executing and delivering, without limitation, the following agreements and certifications relating to the 2017 Refunding Bonds and use of Bond proceeds, which shall be delivered at the closing or delivery of the 2017 Refunding Bonds: tax compliance certificates, general and no litigation certificates, certificates
concerning the accuracy of information included in the Preliminary Official Statement and the Official Statement for the 2017 Refunding Bonds, continuing disclosure agreements, bond purchase agreements, redemption notices and escrow agreements related to the Variable Rate Bonds, and such other agreements and certificates as the NMFA, the Financial Advisor, the underwriters, bond counsel, underwriters’ counsel, disclosure counsel, the Commission’s counsel, the Commission’s bond counsel or issuer’s counsel may request. The officers, employees and agents of the Commission and the Department are authorized and directed to execute and deliver all such documents and certificates and are directed to provide all documents and other information requested by the NMFA or its officers, employees and agents related to the administration and management of the State Transportation Revenue Bonds.

Section 5. Ratification of Prior Actions Taken by the Commission and the NMFA; Inconsistent Actions Superseded.

Prior actions of the Commission, the Department and the NMFA consistent with this Resolution are hereby ratified and approved. All acts, orders, resolutions, or parts thereof, of the Commission that are inconsistent or in conflict with this Resolution are hereby superseded to the extent only of such inconsistency or conflict.

Section 6. Effective Date. The provisions of this Resolution shall become effective immediately upon its adoption and approval.

[Signature page follows]
ADOPTED IN OPEN MEETING BY THE STATE TRANSPORTATION COMMISSION ON JUNE 13, 2017.

______________________________
Ronald L. Schmeits, Chairperson

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Kenneth R. White, Commissioner

______________________________
David Sepich, Commissioner

______________________________
Butch Mathews, Commissioner

______________________________
Jackson Gibson, Commissioner

______________________________
Keith Mortensen, Commissioner

ATTEST: _______________________
Secretary
CERTIFICATE REGARDING RESOLUTION

OF THE NEW MEXICO STATE TRANSPORTATION COMMISSION

I, the undersigned, Ronald L. Schmeits, Chairperson of the New Mexico State Transportation Commission (the “Commission”), DO HEREBY CERTIFY that: (i) the annexed Resolution was duly adopted by the members of the Commission at a meeting thereof duly called and held on June 13, 2017, at which meeting a quorum was present and acting throughout; (ii) the annexed Resolution has been compared by me with the original thereof recorded in the minute books of the Commission and is a correct transcript therefrom and of the whole of said original; (iii) the annexed Resolution has not been altered, amended or repealed; and (iv) the annexed Resolution is in full force and effect on the date of this Certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of June, 2017.

Ronald L. Schmeits, Chairperson
New Mexico State Transportation Commission