

**NEW MEXICO
DEPARTMENT OF TRANSPORTATION**

TRANSPORTATION COMMISSION MEETING



March 24, 2022

**Roswell Convention & Civic Center
912 N. Main Street
Roswell, NM 88201**

NEW MEXICO STATE TRANSPORTATION COMMISSION
Roswell Convention & Civic Center
912 N. Main Street
Roswell, NM 88201
March 24, 2022
8:30 a.m.

Agenda

- 1. Call to Order:** Walter G. Adams, Chairman
 - a. **Establish Quorum**
 - b. **Pledge of Allegiance**
- 2. Approval of Agenda:** Walter G. Adams, Chairman
- 3. Approval of Minutes:** Special Meeting of March 3, 2022
- 4. Introductions:** Walter G. Adams, Chairman
 - a. **Elected Officials**
 - b. **Commission Members**
 - c. **NMDOT Executive Staff**
- 5. Welcoming Remarks:** Walter G. Adams, Chairman
- 6. Public Comment**
- 7. Approval of Resolution No. 2022-04 (MAR) Authorizing the New Mexico Finance Authority to Issue Series 2022 Refunding Bonds:** Peter Shellenberger, PFM and Justin Reese, Deputy Secretary, NMDOT
- 8. Presentation of the ENVISION Award:** Jerry Paz, P.E., Chief Operations Officer, Molzen Corbin and ASCE - Region 6 Director
- 9. “Best of New Mexico” Paving Awards:** Brian Jones, Executive Director, Asphalt Pavement Association of New Mexico
- 10. District Two Update:** Francisco Sanchez, P.E., District Two Engineer, NMDOT
- 11. Staff Briefings**
 - a. **Secretary Report:** Michael Sandoval, Cabinet Secretary, NMDOT
 - b. **FHWA Report:** Cindy Vigue, Division Administrator, FHWA
- 12. Finance Reports**
 - a. **New Mexico Finance Authority (NMFA) Report:** Mark Lovato, Investment Manager, NMFA
 - b. **Financial Status Update:** Mallery Manzanares, Acting Administrative Services Director, NMDOT

- c. **Approval of Budget Adjustment Request (BAR) No. 14 - FHWA Apportionment and Releases:** Mallery Manzanares, Acting Administrative Services Director, NMDOT

13. Policy Reports

- a. **Proposed Amendments to Commission Policy No. 1, New Mexico State Transportation Commission Organization and Meetings ("CP 1"):** Ken Baca, General Counsel, NMDOT
- b. **Initial Rulemaking Action for the Repeal and Replacement of NMDOT Rules 18.20.3 NMAC, *Driver Education Schools*; 18.20.8 NMAC, *Driving Safety Schools*; 18.20.10 NMAC, *New Mexico's Motorcycle Training Program*; 18.20.11 NMAC, *Ignition Interlock Devices*; and 7.32.20 NMAC, *Driving While Impaired (DWI) Schools*:** Leann Adams, Staff Manager, Traffic Safety Division, NMDOT
- c. **Proposal to Transfer Roads Pursuant to Cooperative Agreement with the Town of Bernalillo:** Justin Gibson, P.E., District Three Engineer, NMDOT
- d. **Final Rulemaking Action Regarding Proposed New NMDOT Rule 18.24.1 NMAC, *Autonomous Motor Vehicle Testing*:** Charles Remkes, P.E., ITS Operations Manager, and John Newell, Assistant General Counsel, NMDOT
- e. **Briefing Regarding Proposed Lincoln County Request to Designate Certain Segments of NM 37 and NM 48 for the Operation of Recreational Off-Highway Vehicles:** Francisco Sanchez, P.E., District Two Engineer, NMDOT
- f. **Briefing Regarding Proposed Eddy County Request to Designate a Certain Segment of NM 137 for the Operation of Recreational Off-Highway Vehicles:** Francisco Sanchez, P.E., District Two Engineer, NMDOT

14. Adjournment

Agenda Items 1-2

1. Call to Order: Walter G. Adams, Chairman
 - a) Establish Quorum
 - b) Pledge of Allegiance
2. Approval of Agenda: Walter G. Adams, Chairman

Agenda Item 3

Approval of Minutes:
Special Meeting of
March 3, 2022

**NEW MEXICO STATE TRANSPORTATION COMMISSION
MEETING**

Special Video Conference Meeting

March 3, 2022

The New Mexico State Transportation Commission (STC or Commission) held a special video conference meeting on March 3, 2022. Chairman Adams called the meeting to order at 9:00 a.m. He asked for a roll call to establish a quorum. Mershawn Griego, Office of the Secretary, New Mexico Department of Transportation (NMDOT), proceeded to call the roll. Commissioners Walter G. Adams, Bruce Ellis, Hilma E. Chynoweth, Thomas C. Taylor, and Charles Lundstrom were present. Commissioner Jennifer Sandoval joined the meeting at 9:04 a.m.

Approval of the STC Special Meeting Agenda

Chairman Adams asked for a motion to approve the STC special meeting agenda; Commissioner Ellis made a motion to approve the agenda, as presented; Commissioner Chynoweth seconded; motion carried unanimously.

Approval of the STC Minutes

Chairman Adams asked for a motion to approve the January 6, 2022 STC regular meeting minutes; Commissioner Taylor made a motion to approve the minutes; Commissioner Lundstrom seconded; motion carried unanimously.

State Transportation Commissioners Present:

Jennifer Sandoval, Vice-Chair, District One
Bruce Ellis, Commissioner, District Two
Hilma E. Chynoweth, Commissioner, District Three
Walter G. Adams, Chairman, District Four
Thomas C. Taylor, Commissioner, District Five
Charles Lundstrom, Secretary, District Six

NMDOT Staff Present:

Justin Reese, Deputy Secretary, Business Support
Rick Padilla, P.E., Executive Director of Highway Operations
Jerry Valdez, Executive Projects Director
Kenneth B. Baca, General Counsel
NMDOT Staff

Elected Officials and Delegations Present:

None present.

Welcoming Remarks

Chairman Adams welcomed the STC special meeting attendees and thanked them for participating in the meeting.

Public Comment

No public comment.

Authorizing Resolution No. 2022-03 (MAR) Extension of \$50 Million Line of Credit for BNSF Requirement

William Craven, Rail Bureau Chief, NMDOT Transit and Rail Division, presented and requested approval of STC Resolution No. 2022-03 (MAR) authorizing an extension of the \$50 million line of credit for the BNSF requirement (“line of credit”). BNSF and NMDOT entered into certain agreements (“Rail Runner Agreements”) that required NMDOT to establish a \$50 million escrow account with respect to liability that BNSF may incur related to operation of the Railrunner commuter service. In March 2013, NMDOT and BNSF agreed to amend the Railrunner Agreements to allow for the replacement of the escrow account with a line of credit, and the STC subsequently authorized the New Mexico Finance Authority (NMFA) to enter into the BNSF Taxable Line of Credit Agreement with Wells Fargo Bank, N.A. in an amount not to exceed \$50 million. Under the original Line of Credit Agreement, NMFA, at the direction of NMDOT, could draw on the line of credit until June 30, 2016, or such later date as agreed to by the parties. That deadline (the “Advance Termination Date”) was later extended to June 30, 2019, and still later to June 30, 2022. NMDOT, NMFA and Wells Fargo Bank, N.A. now desire to: (1) extend the Advance Termination Date to June 30, 2025; and (2) amend the Line of Credit Agreement accordingly.

Commissioner Ellis asked if the line of credit would affect any of the NMDOT’s other lines of credit and if it would restrict NMDOT in any way. Mallery Manzanares, Budget Director and Acting Administrative Services Director, NMDOT, responded that the line of credit would not affect any other NMDOT line of credit; it only extends the Line of Credit Agreement.

Chairman Adams asked for a motion to approve STC Resolution No. 2022-03 (MAR) authorizing the extension of the \$50 million line of credit for the BNSF requirement; Commissioner Ellis made a motion to so approve; Commissioner Taylor seconded; motion carried unanimously.

Adjournment

Chairman Adams asked for a motion to adjourn the special video conference meeting at 9:13 a.m.; Commissioner Chynoweth made a motion to adjourn the special meeting; Commissioner Ellis seconded. Motion carried unanimously.

Chairman

Walter G. Adams

Secretary

Charles Lundstrom

Agenda Item 4

- 4. Introductions: Walter G. Adams, Chairman
 - a. Elected Officials
 - b. Commission Members
 - c. NMDOT Executive Staff

Agenda Item 5

Welcoming Remarks: Walter G. Adams, Chairman

Agenda Item 6

Public Comment

Agenda Item 7

Approval of Resolution No.
2022-04 (MAR) Authorizing the
New Mexico Finance Authority
to Issue Series 2022 Refunding
Bonds

Commission Brief

SUBJECT: Approval of Resolution No. 2022-04 (MAR) authorizing the New Mexico Finance Authority to issue Series 2022 refunding bonds to refund the New Mexico Finance Authority State Transportation Refunding Revenue Bonds (Senior Lien) Series 2012; subject to certain parameters.

PRESENTER: Peter Shellenberger, PFM /Justin Reese, NMDOT Deputy Secretary

BACKGROUND: The Series 2012 Bonds are outstanding in the principal amount of \$154.09 million, of which \$50.96 million is callable and available to refund at a savings to the Commission. The Resolution directs the NMFA to accomplish the refunding in 2022 subject to a minimum savings parameter of 3% (including costs of issuance of the Series 2022 Bonds). The Federal Highway Administration has approved the refunding plan and will not require any amendment to the 2021 MOU with the Department.

ACTION: Staff requests that the Commission take action to approve Resolution No. 2022-04 (MAR).

**STATE OF NEW MEXICO
STATE TRANSPORTATION COMMISSION
RESOLUTION NO. 2022-04 (MAR)**

A RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE BY THE NEW MEXICO FINANCE AUTHORITY OF ONE OR MORE SERIES OF STATE TRANSPORTATION REFUNDING REVENUE BONDS FOR THE PURPOSE OF REFINANCING CERTAIN MATURITIES OF OUTSTANDING STATE TRANSPORTATION REFUNDING REVENUE BONDS (STATE TRANSPORTATION COMMISSION–SENIOR LIEN), SERIES 2012, TO ACHIEVE DEBT SERVICE SAVINGS AT THE DIRECTION OF THE STATE TRANSPORTATION COMMISSION, SUBJECT TO SATISFYING SPECIFIED PARAMETERS; AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY, IN CONSULTATION WITH THE CHAIRMAN OF THE COMMISSION AND THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION, TO APPROVE THE FINAL TERMS OF ANY STATE TRANSPORTATION REFUNDING REVENUE BONDS ISSUED PURSUANT TO THIS RESOLUTION; AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY, IN CONSULTATION WITH THE CHAIRMAN OF THE COMMISSION AND THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION, TO EXECUTE ALL AGREEMENTS AND CLOSING CERTIFICATES NECESSARY 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, the Legislature of the State at its 1992 regular session adopted Chapter 61, Laws of New Mexico, 1992, known and cited as the New Mexico Finance Authority Act, being Section 6-21-1 through 6-21-31, NMSA 1978, as amended (the “NMFA Act”); and

WHEREAS, there was created by the NMFA Act a public body politic and corporate, separate and apart from the State, constituting a governmental instrumentality known and identified as the New Mexico Finance Authority (the “NMFA”); 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, and as specifically amended by Laws 2020 (1st S.S.), Chapter 3, Section 8 and Section 5 of Senate Bill 121 of the 2021 General Session (collectively, the “NMDOT Major

Investment Program Financing Legislation”), the Commission is authorized to direct the issuance of state transportation refunding revenue bonds (the “State Transportation Refunding Revenue Bonds”) by 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 finance certain transportation projects authorized by the Legislature of the State (the “NMDOT Major Investment Transportation Projects”); and

WHEREAS, the Department and the New Mexico Division of the Federal Highway Administration (“FHWA”) have entered into a Memorandum of Understanding dated July 14, 2021 (as may be amended and supplemented from time to time, the “2021 FHWA MOU”) providing for the process by which the Secretary of the Department will apply for and receive reimbursement from federal funds by FHWA for debt service and other eligible costs relating to the Major Investment Transportation Projects; and

WHEREAS, pursuant to the GRIP Financing Legislation, codified in Section 67-3-59.3(B), NMSA 1978, as amended and Laws 2020 (1st S.S.), Chapter 3, Section 8, the Commission is directing and authorizing the NMFA to issue State transportation senior lien refunding revenue bonds in an aggregate principal amount not to exceed \$55,000,000 on or before July 22, 2022 (the “2022 Bonds”) to refund certain maturities of the NMFA’s outstanding State Transportation Refunding Revenue Bonds (State Transportation Commission–Senior Lien), Series 2012, (the “Refunded Bonds”) to achieve debt service savings subject to the provisions of the 2021 FHWA MOU that are not waived and certain parameters set out below; and

WHEREAS, the FHWA, in a letter dated February 25, 2022 approved the refunding of the Refunded Bonds and consented that the 2021 FHWA MOU does not need to be amended; and

WHEREAS, the Commission anticipates that the 2022 Bonds will be issued as fixed rate bonds; and

WHEREAS, the Commission desires to authorize any two of the Chair, Vice-Chair or Secretary of the NMFA Board of Directors, members of the NMFA Board of Directors Finance and Disclosure Committee, the NMFA Chief Executive Officer, or other employee of the NMFA when designated by a certificate signed by the Chief Executive Officer of the NMFA (collectively, the “Designated Officers”), in consultation with the Chairman of the Commission and the Secretary of the Department, to approve the final terms of the 2022 Bonds consistent with the parameters set forth in this Resolution; and

WHEREAS, the Commission desires to authorize the Designated Officers, in consultation with 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 2022 Bonds and to execute certain agreements and certificates necessary, appropriate or convenient in connection with the issuance, sale and delivery of the 2022 Bonds.

NOW, THEREFORE, IT IS RESOLVED BY THE STATE TRANSPORTATION COMMISSION:

Section 1. Determinations as to 2022 Bonds.

The Commission hereby determines that the 2022 Bonds should be issued if the issuance meets the parameters set forth in Section 2 below. The Commission further determines that issuance of the 2022 Bonds 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 pursue a transaction to issue one or more series of 2022 Bonds on or before July 22, 2022 with an aggregate maximum size of all series not to exceed \$55,000,000, pursuant to 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), and subject to any restrictions contained in the 2021 FHWA MOU that are not waived.

Section 2. Authorization and Parameters of 2022 Bonds.

(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 2022 Bonds pursuant to the Master Indenture and one or more Series Indentures in one or more series with an aggregate maximum size of all series not to exceed \$55,000,000 to provide a present value debt service savings of at least 3%. Each series of the 2022 Bonds shall mature on the dates (no later than June 15, 2026) and in the amounts, bear interest at the rate or rates, and may 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 Authorizing and Delegating Resolutions adopted by the NMFA on or prior to the sale date of the related series of the 2022 Bonds. The NMFA Authorizing and Delegating 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 2022 Bonds.

(b) Subject to these parameters, the NMFA, in consultation with the Department, shall determine the amounts and maturities of the 2022 Bonds.

Section 3. Continuing Assistance in Implementation of State transportation refunding 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 2022 Bonds) and the NMFA in structuring and approving the issuance and sale of the 2022 Bonds, including executing and delivering, without limitation and to the extent applicable, the following agreements and certifications relating to the 2022 Bonds and use of Bond proceeds, which shall be delivered at the closing or delivery of the 2022 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 2022 Bonds, continuing disclosure agreements, bond purchase agreements, 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 refunding revenue bonds.

Section 4. 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 5. 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 MARCH 24, 2022.

Walter Adams, Chairman

Jennifer Sandoval, Vice-Chair

Charles Lundstrom, Secretary

Bruce Ellis, Commissioner

Hilma Chynoweth, Commissioner

Thomas C. Taylor, Commissioner

ATTEST: _____
Secretary

**CERTIFICATE REGARDING RESOLUTION
OF THE NEW MEXICO STATE TRANSPORTATION COMMISSION**

I, the undersigned, Walter Adams, Chairman, 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 March 24, 2022, 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 ____ day of _____, 2022.

Walter Adams, Chairman
New Mexico State Transportation
Commission

Agenda Item 8

Presentation of the
ENVISION Award

Commission Brief

SUBJECT: Presentation of the ENVISION Award

PRESENTER: Jerry Paz -Molzen Corbin

BACKGROUND:

Silver Award for project Sustainability by ISI for the I-25 University Project. This is the first ever for the NMDOT and the State of NM.

ACTION:

No Action

Agenda Item 9

"Best of New Mexico"
Paving Awards

Commission Brief

SUBJECT: “Best of New Mexico” Paving Awards

PRESENTER: Brian Jones, Executive Director, Asphalt Pavement Association of New Mexico

BACKGROUND:

ACTION: No Action

2021 BEST of NEW MEXICO RECONSTRUCTION AND PAVING

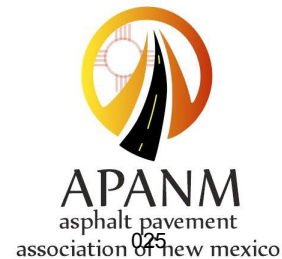
Bridge on I-25/University Ave – Dona Ana County



Paving Contractor Desert Fox

\$33,294,850

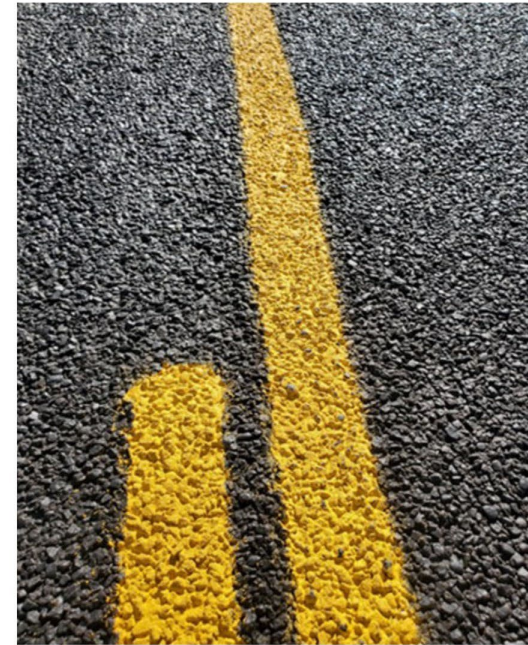
NMDOT District 1



2021 BEST of NEW MEXICO

SURFACE TREATMENT

Chip Sealing Program - NM 15 Grant County



NMDOT Chip Seal Crew

\$364,374

NMDOT District 1

2021 BEST of NEW MEXICO

HOT-IN-PLACE RECYCLING 2" MILL, RESURFACE, OVERLAY

US 60/84 - Curry County



Culter Repaving, Inc.

\$4,408,396

NMDOT District 2



2021 BEST of NEW MEXICO
RURAL HIGHWAY RESURFACING
US 70 Ruidoso Downs - Lincoln County



Mesa Verde Enterprises, Inc.

\$10,735,122

NMDOT D-2

2021 BEST of NEW MEXICO
IN -PLACE RECYCLING TREATMENT
FOUR SETS OF PRE-HEATER/HEAT MILL
US 54 MP 55-45 - Otero County



Dustrol, Inc.

\$1,703,403

NMDOT District 2

2021 BEST of NEW MEXICO RURAL HIGHWAY NEW CONSTRUCTION

US-54 MP 145.5 to MP 152.4 - Lincoln County



Mountain States Constructors Inc. \$15,317,956

NMDOT District 2

2021 BEST of NEW MEXICO
RURAL HIGHWAY NEW CONSTRUCTION
City of Roswell - Plant Mix Wearing Course



Brasier Asphalt INC.

\$811,419

NMDOT District 2



2021 BEST of NEW MEXICO
IN-PLACE FULL DEPTH RECYCLING
I-25 MP 196.488 to MP 198.7 - Valencia County



Mountain States Constructors Inc.

\$4,911,955

NMDOT District 3



2021 BEST of NEW MEXICO
RURAL HIGHWAY RECONSTRUCTION
I-25 MP 415.2 to MP 420.0 - Colfax County



Fisher Sand & Gravel-NM Inc.

\$6,750,000



NMDOT D-4

Agenda Item 10

District Two Update

Agenda Item 11

Staff Briefings

Agenda Item 11a

Secretary Report

Commission Brief

SUBJECT: Secretary Report

PRESENTER: Michael Sandoval, Cabinet Secretary, NMDOT

BACKGROUND:

ACTION: No Action

Agenda Item 11b

FHWA Report

Commission Brief

SUBJECT: FHWA Report

PRESENTER: Cindy Vigue, Division Administrator, FHWA

BACKGROUND:

ACTION: No Action

Agenda Item 12

Finance Reports

Agenda Item 12a

New Mexico Finance Authority (NMFA) Report

Commission Brief

SUBJECT: NMFA Report

PRESENTER: Mark Lovato, Managing Director of Investments, NMFA

BACKGROUND:

ACTION: No Action

New Mexico Finance Authority report to
State Transportation Commission

Agenda for March 24, 2022

1. NMDOT Combined Investment Summary ending February 28, 2022
 2. NMDOT/NMFA Debt Service outlook to June 15, 2022, Bond Payment as of February 28, 2022
-

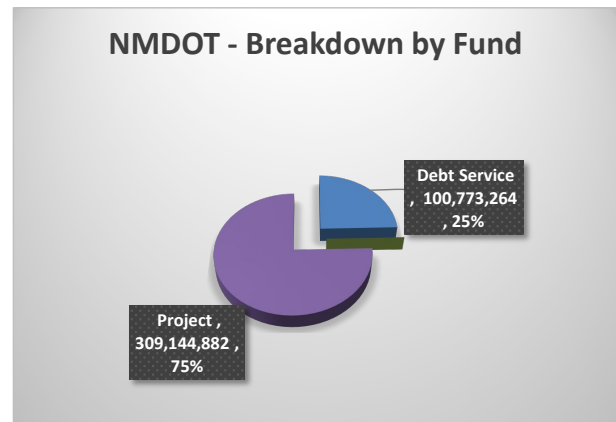
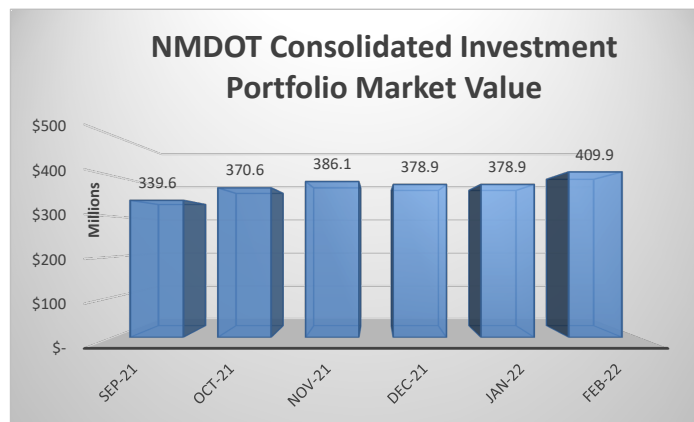


INVESTMENT OF NM DEPT OF TRANSPORTATION BONDS NMDOT - BOND SERIES PORTFOLIO SUMMARIES

February 28, 2022

NMDOT BOND SERIES DEBT SERVICE - Portfolio Summary							
Bond Series	Beginning Balance	Bond Payment Set Aside Pmt	Interest	Ending Balance	Next Bond DS Pmt 12/15/2021	Final Maturity	Call Date
2012 Senior	56,651,578.28	19,992,936.38	491.74	76,645,006.40	3,415,575.00	6/15/2026	6/15/2022
2014 A Sub	415,604.16	505,227.30	3.61	920,835.07	1,389,375.00	6/15/2032	6/15/2024
2014 B1 Senior	166,494.37	558,000.00	1.45	724,495.82	1,534,500.00	6/15/2027	6/15/2024
2014 B2 Sub	987,923.31	424,090.94	8.58	1,412,022.83	296,250.00	6/15/2027	6/15/2024
2018 A Sub	7,999,155.30	6,105,681.82	69.43	14,104,906.55	10,438,125.00	6/15/2030	6/15/2028
2020 A Senior	2,999,724.01	1,228,000.00	26.04	4,227,750.05	1,579,500.00	6/15/2025	
2021 A Sub	537,057.46	2,201,185.20	4.76	2,738,247.42	4,040,333.33	6/15/2030	
TOTAL	69,757,536.89	31,015,121.64	605.61	100,773,264.14	22,693,658.33		

NMDOT BOND SERIES PROJECT/OTHER FUNDS - Portfolio Summary				
Bond Series	Beginning Balance	Draws - Payments	Interest	Ending Balance
2021 A Project	302,414,414.67	-	2,624.96	302,417,039.63
2014 A Project	6,727,783.56	-	58.40	6,727,841.96
TOTAL	309,142,198.23	-	2,683.36	309,144,881.59



NMDOT BOND SERIES LINE OF CREDIT - Portfolio Summary					
Line of Credit	Beginning Balance	Draws - Contributions	Commitment Fee	Ending Balance	Agreement Terms
Wells Fargo	50,000,000.00			50,000,000.00	BNSF Line expires 6/30/2022 LOC started July 2013
Payments	-	-	-	-	Used : 1-mo LIBOR + .77% Unused : .19% Commitment Fees Paid \$808,389
TOTAL	50,000,000.00	-	-	50,000,000.00	

NMDOT/NMFA OUTSTANDING BOND DEBT SERVICE

For Period: 2st half Fiscal Year 2022

Bond Series	Current Amount Outstanding	Final Maturity Date	Principal Debt Service Due 6/15/2022	Interest Debt Service Due 6/15/2022	Total Debt Service Due 6/15/2022	Debt Service held as of 2/28/2022	Shortage / Overage as of 2/28/2022
Fixed Rate Bonds							
2012 Sr	154,090,000	6/15/26	103,130,000	3,415,575	106,545,575	76,645,006	(29,900,569)
2014 A Sub	55,575,000	6/15/32	-	1,389,375	1,389,375	920,835	(468,540)
2014 B-1 Sr	61,380,000	6/15/27	-	1,534,500	1,534,500	724,496	(810,004)
2014 B-2 Sub	11,850,000	6/15/27	1,740,000	296,250	2,036,250	1,412,023	(624,227)
2018 A Sub	417,525,000	6/15/30	12,705,000	10,438,125	23,143,125	14,104,907	(9,038,218)
2020 A Sr	63,180,000	6/15/25	3,595,000	1,579,500	5,174,500	4,227,750	(946,750)
2021 A Sub	234,600,000	6/15/30	-	5,865,000	5,865,000	2,738,247	(3,126,753)
	998,200,000		121,170,000	24,518,325	145,688,325	100,773,264	(44,915,061)
Senior Lien	278,650,000		106,725,000	6,529,575	113,254,575		
Subordinate Lien	719,550,000		14,445,000	17,988,750	32,433,750		
Total	998,200,000						
Payments on Dec 15, 2021			-	22,693,658	22,693,658		
TOTAL Annual DS			121,170,000	47,211,983	168,381,983		

Agenda Item 12b

Financial Status Update

Commission Brief

SUBJECT:

FY22 Operating Budget and Financial Report – March 24, 2022

PRESENTER: Mallery Manzanares, Acting Administrative Service
Director

BACKGROUND:

ACTION: No Action

	A	B	C	D	E		F	G	
1	FY2022 NMDOT Financial Summary as of March 1, 2022								1
2									2
3	STATE ROAD FUND ONLY								3
4	(Dollars in Millions)								4
5									5
6		Begin FY22	+FY22	+FY22	COMBINED		Actual FY22		6
7		OPBUD	Rollover	BARS	FY22 BUDGET		Rev/Exp	PCT	7
8	<u>Revenues</u>								8
9	<u>CURRENT INFLOWS</u>								9
10	State Funds	\$ 493.2	\$ -	\$ -	\$ 493.2		\$ 294.6	59.7%	10
11	FHWA Funding	\$ 369.1	\$ 480.7	\$ 44.4	\$ 894.2		\$ 274.0	30.6%	11
12	Transfer From Other Agency	\$ 12.0	\$ -	\$ -	\$ 12.0		\$ 12.00	100.0%	12
13	Fund Balance Reserves	\$ 29.0	\$ 142.1	\$ 64.6	\$ 235.7		\$ -	0.0%	13
14	1) TOTAL INFLOWS (REVENUES):	\$903.3	\$622.8	\$109.0	\$1,635.1		\$580.6	35.5%	14
15									15
16	<u>Expenditures</u>								16
17	<u>CURRENT OUTFLOWS:</u>								17
18	Personnel Services	\$ 169.5	\$ -	\$ 15.1	\$ 184.6		\$ 111.1	60.2%	18
19	Contractual Services	\$ 444.8	\$ 592.9	\$ 111.0	\$ 1,148.7		\$ 296.5	25.8%	19
20	Other Operating Costs	\$ 134.1	\$ 29.9	\$ -	\$ 164.0		\$ 63.6	38.8%	20
21	CAT 500 Transfer Out	\$ -	\$ -	\$ -	\$ -		\$ -	0.0%	21
22	Debt Service	\$ 154.9	\$ -	\$ 9.9	\$ 164.8		\$ 119.3	72.4%	22
23	2) TOTAL OUTFLOWS - EXPENDITURES:	\$903.3	\$622.8	\$136.0	\$1,662.1		\$590.5	35.5%	23

	A	B	C	D	E	F	G	
1	FY2022 NMDOT Financial Summary as of March 1, 2022							1
2								2
3	RESTRICTED FUNDS ONLY							3
4	(Dollars in Millions)							4
5								5
6		Begin FY22	+FY22	+FY22	COMBINED	Actual FY22		6
7		OPBUD	Rollover	BARS	FY22 BUDGET	Rev/Exp	PCT	7
8								8
9	CURRENT INFLOWS:							9
10	21170- Transportation Project Fund (Restricted)	\$ 41.1	\$ -	\$ -	\$ 41.1	\$ 27.3	66.4%	10
11	21170- Transportation Project Fund Reserves	\$ -	\$ -	\$ -	\$ -	\$ -	0.0%	11
12	20200- Highway Infrastructure Fund (Restricted)	\$ 3.6	\$ -	\$ -	\$ 3.6	\$ 4.8	133.3%	12
13	20200- Highway Infrastructure Fund Reserves	\$ -	\$ -	\$ -	\$ -	\$ -	0.0%	13
14	20300- Local Gov't Road Fund (Restricted)	\$ 24.8	\$ -	\$ -	\$ 24.8	\$ 14.6	58.9%	14
15	20300- Local Gov't Road Fund Reserves	\$ -	\$ 23.4	\$ -	\$ 23.4	\$ -	0.0%	15
16	20500- Aviation Fund - Federal (Restricted)	\$ 5.7	\$ -	\$ -	\$ 5.7	\$ 3.4	59.6%	16
17	20500- Aviation Fund Balance Reserves	\$ -	\$ 10.4	\$ -	\$ 10.4	\$ -	0.0%	17
18	Traffic Safety Funds (5 Restricted Funds)	\$ 2.4	\$ 1.9	\$ -	\$ 4.3	\$ 1.1	25.6%	18
19	Traffic Safety Fund Balance Reserves	\$ -	\$ -	\$ -	\$ -	\$ -	0.0%	19
20	10010- NHTSA Funding-(Reimbursement Basis)	\$ 15.8	\$ 10.1	\$ -	\$ 25.9	\$ 6.0	23.2%	20
21	10030- FTA Funding-(Reimbursement Basis)	\$ 19.2	\$ 38.3	\$ 5.7	\$ 63.2	\$ 8.4	13.3%	21
22	89300- State Infrastructure Bank Reserves	\$ -	\$ -	\$ -	\$ -	\$ -	0.0%	22
23	1) TOTAL INFLOWS (REVENUES):	\$112.6	\$84.1	\$5.7	\$202.4	\$65.6	32.4%	23
24								24
25	CURRENT OUTFLOWS:							25
26	Personnel Services	\$ 2.1	\$ -	\$ -	\$ 2.1	\$ 1.2	57.1%	26
27	Contractual Services	\$ 13.3	\$ 7.1	\$ -	\$ 20.4	\$ 6.8	33.3%	27
28	Other Operating Costs	\$ 93.6	\$ 77.0	\$ 5.7	\$ 176.3	\$ 29.0	16.4%	28
29	CAT 500 Transfer Out	\$ -	\$ -	\$ -	\$ -	\$ -	0.0%	29
30	Debt Service	\$ 3.6	\$ -	\$ -	\$ 3.6	\$ 2.6	72.2%	30
31	2) TOTAL OUTFLOWS (EXPENDITURES):	\$112.6	\$84.1	\$5.7	\$202.4	\$39.6	19.6%	31

CASH BALANCES FOR OPERATING BUDGET FUNDS

(Balances as of Trial Balances on March 1,2022)

NMDOT-FUNDS		Feb-21	Mar-21	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21	Jan-22	Feb-22
1	ROAD FUND (10040,20100)	264,512,827	263,869,626	252,866,516	274,284,475	322,707,343	322,046,941	293,490,628	386,878,699	356,330,673	360,194,289	367,123,600	362,737,623	368,742,712
2	Local Government Road Fund (20300) Restricted	36,897,945	37,559,847	37,496,003	37,505,689	35,885,625	37,470,586	37,209,644	38,144,292	39,041,538	38,983,403	38,103,578	38,161,591	38,748,864
3	Transportation Project Fund (21170) Restricted								8,133,328	12,251,416	16,396,120	19,839,237	22,697,787	26,208,057
4	Highway Infrastructure Fund (20200) Restricted	2,013,520	1,824,571	1,660,414	1,611,420	2,680,607	2,854,489	2,795,850	3,424,214	3,858,964	4,399,079	4,946,363	5,650,292	5,654,027
5	State Infrastructure Fund (89300) Restricted	10,884,181	10,884,181	10,884,181	10,884,181	10,993,181	10,996,287	11,089,516	11,089,516	11,089,516	11,089,516	11,089,516	11,089,516	11,089,516
6	Aviation Fund (20500) Restricted	12,882,067	12,894,832	12,595,857	12,938,517	13,329,393	13,230,707	12,134,955	12,261,344	12,622,946	12,889,498	13,325,911	13,733,854	14,134,984
7	Traffic Safety Funds (10020,20600,20700,20800) Restricted	2,829,329	2,924,256	2,910,010	2,981,217	3,000,030	3,028,789	2,928,217	3,114,623	3,215,188	3,078,389	3,166,150	3,060,038	3,040,667
8	National Highway Traffic Safety Administration (10010) Federal	(495,097)	(1,359,564)	(2,556,458)	(614,880)	(1,575,148)	(2,417,960)	(1,179,066)	(1,646,385)	(1,730,172)	(2,504,959)	(1,157,475)	(1,965,023)	(1,888,945)
9	Federal Transit Administration (10030) Federal	(2,649,197)	(1,901,197)	(2,558,399)	(2,219,027)	(2,896,373)	(1,705,833)	(213,289)	(1,096,245)	(2,736,922)	(2,017,400)	(655,357)	(810,001)	(1,541,066)
10	Ignition Interlock (82600) Restricted	2,001,647	1,985,444	2,282,249	2,259,064	2,242,988	2,216,639	2,191,267	2,212,394	2,229,065	2,215,343	2,175,202	2,172,444	2,154,000
11	RESTRICTED FUND TOTALS	64,364,394	64,812,370	62,713,856	65,346,183	63,660,302	65,673,705	66,957,095	75,637,082	79,841,540	84,528,988	90,833,125	93,790,498	97,600,103
12	TOTAL CASH BALANCES	328,877,221	328,681,996	315,580,372	339,630,658	386,367,645	387,720,646	360,447,724	462,515,781	436,172,213	444,723,276	457,956,725	456,528,121	466,342,815

1	FY22 FUND BALANCES AS OF JUNE 30, 2022						1
2				(Less)		"Projected"	2
3		Audited	(Less)	Encumbrance	(Less)	Unbudgeted	3
4		Fund Balances	Re-Budgeted in	Rollover-Non-Federal	FY22	Fund Balances	4
5	<u>NMDOT-FUNDS</u>	<u>6/30/2021</u>	<u>Begin FY22 Budget</u>	<u>FY21/22 Budget</u>	<u>BARS & OPRS</u>	<u>6/30/2022</u>	5
6	Unrestricted:						6
7	ROAD FUND (20100)+ INVENTORY (10040)	380,686,840	(28,969,900)	(142,078,577)	(184,835,144)	24,803,219	7
8							8
9							9
10	Restricted Funds:						10
11	NHTSA (10010)	0		0		0	11
12	DRIVER IMPROVEMENT (10020)	166,632		(78,693)		87,939	12
14	FTA (10030)	0		0		0	14
15	HIF (20200)	3,444,994		0		3,444,994	15
16	LOCAL GOVT (20300)	39,527,376		(23,328,398)	(500,000)	15,698,978	16
17	AVIATION (20500)	13,526,429		(10,392,903)		3,133,526	17
18	MOTORCYCLE (20600)	88,380		(88,380)		0	18
19	DWI PREVENTION (20700)	1,088,032		(370,501)		717,531	19
20	STATE TRAFFIC SAFETY (20800)	1,529,892		(1,312,081)		217,811	20
21	DOE (43100)	0		0		0	21
22	SIB (89300)	22,136,772		0		22,136,772	22
23	INTERLOCK (82600)	2,245,417		(109,331)		2,136,086	23
24	Total Restricted Funds:	83,753,923	0	(35,680,287)	(500,000)	47,573,637	24
25							25
26	TOTAL OPERATING FUND BALANCES	<u>464,440,763</u>	<u>(28,969,900)</u>	<u>(177,758,864)</u>	<u>(185,335,144)</u>	<u>72,376,855</u>	26

Agenda Item 12c

Approval of Budget
Adjustment Request (BAR) No.
14 - FHWA Apportionment and
Releases

Commission Brief

SUBJECT:

FY22 BAR #14 P562 – PDC

PRESENTER: Mallery Manzanares, Administrative Service Director

BACKGROUND:

A FY22 BAR is required to establish budget authority for the FHWA program. The BAR will increase contractual services (category 300) by \$137.3 million dollars of which \$117.4 is federal funds and \$19.9 is state match.

This BAR is to accommodate the increase in Federal Apportionment we received due to the new Infrastructure Investment and Job Act (IIJA) signed into law on November 15, 2021.

The state road fund balance will support the state match for this request.

ACTION: Request BAR Approval

Agenda Item 13

Policy Reports

Agenda Item 13a

Proposed Amendments to
Commission Policy No. 1, New
Mexico State Transportation
Commission Organization and
Meetings ("CP 1")

Commission Brief

SUBJECT: Proposed amendments to Commission Policy No. 1, *New Mexico State Transportation Commission Organization and Meetings* (“CP 1”).

PRESENTER: Ken Baca, General Counsel, NMDOT

BACKGROUND: CP 1 is the policy that sets forth the guidelines regarding the organization and meetings, both open and closed, of the New Mexico State Transportation Commission.

The proposed amendments clarify that Commissioners may participate *remotely* in a meeting of the Commission when in-person attendance is difficult or impossible, and that such participation may include by telephone, videoconference, and live streaming, or other similar technology, including Zoom and Microsoft Teams.

ACTION: No action is required at this time. This draft is for discussion purposes only.

March 24, 2022

NEW MEXICO STATE TRANSPORTATION COMMISSION



CP 1

04/21/16

00/00/00

New Mexico State Transportation Commission Organization and Meetings

Reference: Article V, Section 14, New Mexico State Constitution
NMSA 1978, Sections 67-3-10 and 10-15-1 to 10-15-4

This Commission Policy supersedes Commission Policy No. 1 dated ~~June 17, 2011~~ April 21, 2016.

The following guidelines represent the organization and meetings, both open and closed, of the New Mexico State Transportation Commission:

A. ORGANIZATION

1. The officers of the Commission consist of a Chair, Vice-Chair and Secretary. The Chair presides at all meetings of the Commission and exercises the powers of the Commission as the Commission from time to time determines. The Vice-Chair exercises all of the duties and powers of the Chair in the Chair's absence.
2. The Chair, Vice-Chair and Secretary are elected by the Commission and serve at the pleasure of the Commission.

B. VACANCIES

1. The Commission consists of six Commissioners, one from each of the six (6) state transportation commission districts within the State. The members of the Commission are appointed by the Governor of the State, with the advice and consent of the State Senate. The members are appointed every two (2) years for staggered six (6) year terms. In the event of a vacancy on the Commission, before the expiration of a term, the Governor shall be notified of the vacancy by the Chair as soon as possible. When the Governor has appointed a replacement and the oath of office has been executed, the newly appointed Commissioner shall be entitled to exercise all of the powers granted by law to Commissioners until the next regular session of the State Legislature, at which time the Governor shall make an appointment for the balance of the unexpired

term, which appointment must be confirmed by the State Senate before the appointee can serve as a Commissioner.

2. The term of a confirmed appointee filling a vacancy expires on December 31st of the year that the original appointee's term would have expired.

C. MEETING ATTENDANCE

1. At any meeting of the Commission, four (4) members shall constitute a quorum, and a majority of those present shall be necessary to take action.
2. The Secretary of Transportation (hereinafter "Secretary") and necessary staff members shall attend Commission meetings as designated by the Secretary.

D. MEETING SCHEDULE

1. At the beginning of each calendar year, the Commission will set a meeting schedule for the year and revise if and when needed. Regular meetings will generally be held on the third Thursday of a month when designated to occur and extend to the following Friday if the agenda necessitates additional time. The Commission may alter the meeting schedule at its discretion.
2. Special or emergency meetings may be called by the Chair or by any three members of the Commission.

E. NOTICE OF PUBLIC MEETINGS

1. With certain specific statutory exceptions, the New Mexico Open Meetings Act provides that all meetings of any public body, such as the State Transportation Commission, are public, or open, meetings, such that all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings.
2. By statute, the Commission shall determine at least annually what notice will be reasonable for purposes of both open and closed meetings. Therefore, the following notice requirements shall govern Commission meetings for both open and closed meetings. All notices shall be given by the Secretary and shall state that reasonable accommodations will be made for disabled individuals wishing to attend open meetings in accordance with the Americans with Disabilities Act.

a. Open Meetings

- 1) Regular Meetings – Notice of date, time, place and proposed agenda availability for regular meetings shall be given ten days in advance of the meeting date by placing a notice in at

least one newspaper of statewide general circulation and, if publishing deadlines permit following the Chair's approval of the agenda, in at least one newspaper of general circulation within the meeting's geographical location. Concurrently, notice shall be mailed to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation, which have made a written request for such notice.

2) Special Meetings – Notice of date, time, place and agenda availability for special meetings shall be given at least three (3) days in advance of the meeting date by placing a notice in at least one (1) newspaper of statewide general circulation and in at least one (1) newspaper of general circulation within the meeting's geographical location. Concurrently, telephonic notice shall be made to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation, which have made a written request for such notice.

3) Committee Meetings – Meetings at which a quorum is in attendance and at which the discussion or adoption of any proposed resolution, proposed rule, proposed regulation or proposed formal action occurs shall be held only after notice is given pursuant to this subsection.

b. Emergency Meetings – Notice of date, time, place and agenda availability for emergency meetings shall be given as far in advance as practicable before the meeting date and time. Within ten (10) days after taking action on an emergency matter, the Commission shall provide a report to the Attorney General's office regarding the action taken and the circumstances creating the emergency.

c. Closed Meetings

1) Notice of date, time, place, subject matter and the specific provisions of law authorizing the closed meeting shall be given as provided in subparagraph E(2)(a) above for closed meetings called when the Commission is not in an open meeting.

2) Should a closed meeting be called during an open meeting, the authority and subject matter for such closure shall be stated in the motion, the vote shall be taken in the open meeting and the vote of each individual member present shall be recorded in the minutes. When the majority of the members present approve closing a meeting, the Commission may immediately retire into closed session or schedule another time during the meeting to go into closed session.

F. MEETING AGENDA CRITERIA

1. Commissioners and Department staff shall submit potential agenda items to the Secretary at least eight (8) days in advance of the day on which a STC meeting is scheduled. All potential agenda items shall be reviewed and approved or rejected by the Commission Chair prior to publication of the final agenda.
2. Except in the case of an emergency, the Commission shall make a meeting agenda available to the public at least seventy-two (72) hours prior to the meeting. The meeting agenda shall also be posted on the Department's website at least seventy-two (72) hours prior to the meeting.
3. The following items shall be the basis for preparation of the agenda for regular meetings:
 - a. call to order;
 - b. roll call and establishment of a quorum;
 - c. Pledge of Allegiance;
 - d. Introduction and welcoming remarks;
 - e. approval of agenda;
 - f. approval of previous meeting minutes;
 - g. Approval of consent agenda (may include activity reports, review of administrative directives, professional services agreements, cooperative and school bus route agreements, change orders, audit reports, and administrative directives);
 - h. delegations (Federal, State and local governmental representatives, special committees, Legislators, special interest groups and private citizens):
 - 1) delegation requests to address the Commission shall be honored at the next regular meeting for which proper agenda notice of the subject matter is given,
 - 2) delegations shall be notified of agenda placement by the Secretary's Office,
 - 3) delegations may be added to the agenda during a Commission meeting with the consent of the Commission provided no action is taken on the delegation's presentation;

- i. Approval of financial report and actions, including budget adjustment requests (BARs); resolutions, rulemaking and other actions requiring Commission approval;
 - j. staff briefings on transportation issues that do not require Commission action;
 - k. Commission communication questions;
 - l. new business;
 - m. scheduling of special Commission activities, a committee meeting, a regular or special Commission meeting and scheduling of agenda items for the next meeting; and
 - n. adjournment.
- 4. The Commission shall take action only on items appearing on the agenda. Additional items of business may be brought before the Commission and discussed but not acted upon until properly noticed, unless the matter is an emergency as defined by NMSA 1978, Section 10-15-1(F), of the New Mexico Open Meetings Act.
 - 5. In the event a Commission meeting must be canceled or postponed, all agenda items requiring action, delegation presentations, or other items requiring Commission consideration shall be moved to the next regular or special meeting as determined by the Commission.

G. RULES OF ORDER

The rules of order contained in the most recent edition of Robert's Rules of Order shall govern the conduct of Commission meetings unless those rules are inconsistent with State law, Department rule, or Commission policy.

H. MOTIONS AND RESOLUTIONS

- 1. All actions of the Commission shall be taken upon a motion made by a Commission member, seconded by another member and adopted by a majority of those members present.
- 2. Normally, action shall be taken by oral motions that are recorded in the Commission's minutes. When, however, the action taken is to be documented outside the minutes, or provided in writing to a party or parties outside the Commission and Department, or is intended to reflect views held by the Commission, it shall be by a motion to adopt a written resolution which reflects the action.
- 3. Written resolutions shall be reviewed by the Department's General Counsel before presentation to the Commission.

4. Beginning with the regularly scheduled Commission Meeting in January 2000, written resolutions adopted by the Commission shall be numbered sequentially on a calendar year basis using the year the resolution is adopted, then a hyphen or dash, then the number of the resolution in sequence of adoption, starting with the number 1 for the first resolution adopted in a calendar year, and then, in parenthesis, the abbreviation for the month the resolution is adopted, e.g., Resolution No. 2000-1(JAN) or Resolution No. 2000-12(AUG) or Resolution No. 2003-5(NOV).

I. OFFICIAL MEETING MINUTES

1. All open meetings of the Commission shall be audio recorded. The audio recordings shall be retained in compliance with the State Records Act, or longer, at the discretion of the Department.
2. A draft copy of the minutes for open meetings shall be prepared within ten working days of the meeting and shall indicate they have not been approved by the Commission. The minutes shall be official once approved by the Commission.
3. The minutes may be inspected by the public and will contain:
 - a. the date of the meeting;
 - b. the time and place of the meeting;
 - c. the members of the Commission present and absent;
 - d. a short, concise statement or summary of the topics, proposals, items or actions taken or considered;
 - e. a verbatim recitation of verbal motions made at the meeting, whether receiving a second or dying without a second;
 - f. the results of votes taken on any motion;
 - g. the results of any roll call vote with each member's vote noted; and
 - h. indication of motions dying for lack of a second.

J. TELECONFERENCE MEETINGS

1. A Commissioner may participate remotely in a meeting of the Commission by means of a conference telephone or television, a live streaming application, including but not limited to Zoom or Microsoft Teams, or other similar communications (teleconferencing) equipment, when it is otherwise difficult or impossible for the Commissioner to attend the meeting in person.

2. Each Commissioner participating remotely in a meeting by teleconferencing or other similar communications equipment must be identifiable when speaking, all Commissioners participating in the meeting must be able to hear each other at the same time, and all members of the public attending the meeting must be able to hear any Commissioner who speaks during the meeting.

K. RULEMAKING

The Secretary shall take the actions necessary to promulgate paragraphs (E), (I) and (J) of this Policy as a Department rule or rules.

NEW MEXICO STATE TRANSPORTATION COMMISSION



CP 1
00/00/00

New Mexico State Transportation Commission Organization and Meetings

Reference: Article V, Section 14, New Mexico State Constitution
NMSA 1978, Sections 67-3-10 and 10-15-1 to 10-15-4

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term, which appointment must be confirmed by the State Senate before the appointee can serve as a Commissioner.

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2. Except in the case of an emergency, the Commission shall make a meeting agenda available to the public at least seventy-two (72) hours prior to the meeting. The meeting agenda shall also be posted on the Department's website at least seventy-two (72) hours prior to the meeting.
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 - f. approval of previous meeting minutes;
 - g. Approval of consent agenda (may include activity reports, review of administrative directives, professional services agreements, cooperative and school bus route agreements, change orders, audit reports, and administrative directives);
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 - m. scheduling of special Commission activities, a committee meeting, a regular or special Commission meeting and scheduling of agenda items for the next meeting; and
 - n. adjournment.
- 4. The Commission shall take action only on items appearing on the agenda. Additional items of business may be brought before the Commission and discussed but not acted upon until properly noticed, unless the matter is an emergency as defined by NMSA 1978, Section 10-15-1(F), of the New Mexico Open Meetings Act.
 - 5. In the event a Commission meeting must be canceled or postponed, all agenda items requiring action, delegation presentations, or other items requiring Commission consideration shall be moved to the next regular or special meeting as determined by the Commission.

G. RULES OF ORDER

The rules of order contained in the most recent edition of Robert's Rules of Order shall govern the conduct of Commission meetings unless those rules are inconsistent with State law, Department rule, or Commission policy.

H. MOTIONS AND RESOLUTIONS

- 1. All actions of the Commission shall be taken upon a motion made by a Commission member, seconded by another member and adopted by a majority of those members present.
- 2. Normally, action shall be taken by oral motions that are recorded in the Commission's minutes. When, however, the action taken is to be documented outside the minutes, or provided in writing to a party or parties outside the Commission and Department, or is intended to reflect views held by the Commission, it shall be by a motion to adopt a written resolution which reflects the action.
- 3. Written resolutions shall be reviewed by the Department's General Counsel before presentation to the Commission.

4. Beginning with the regularly scheduled Commission Meeting in January 2000, written resolutions adopted by the Commission shall be numbered sequentially on a calendar year basis using the year the resolution is adopted, then a hyphen or dash, then the number of the resolution in sequence of adoption, starting with the number 1 for the first resolution adopted in a calendar year, and then, in parenthesis, the abbreviation for the month the resolution is adopted, e.g., Resolution No. 2000-1(JAN) or Resolution No. 2000-12(AUG) or Resolution No. 2003-5(NOV).

I. OFFICIAL MEETING MINUTES

1. All open meetings of the Commission shall be audio recorded. The audio recordings shall be retained in compliance with the State Records Act, or longer, at the discretion of the Department.
2. A draft copy of the minutes for open meetings shall be prepared within ten working days of the meeting and shall indicate they have not been approved by the Commission. The minutes shall be official once approved by the Commission.
3. The minutes may be inspected by the public and will contain:
 - a. the date of the meeting;
 - b. the time and place of the meeting;
 - c. the members of the Commission present and absent;
 - d. a short, concise statement or summary of the topics, proposals, items or actions taken or considered;
 - e. a verbatim recitation of verbal motions made at the meeting, whether receiving a second or dying without a second;
 - f. the results of votes taken on any motion;
 - g. the results of any roll call vote with each member's vote noted; and
 - h. indication of motions dying for lack of a second.

J. TELECONFERENCE MEETINGS

1. A Commissioner may participate remotely in a meeting of the Commission by means of a conference telephone or television, a live streaming application, including but not limited to Zoom or Microsoft Teams, or other similar communications (teleconferencing) equipment, when it is otherwise difficult or impossible for the Commissioner to attend the meeting in person.

2. Each Commissioner participating remotely in a meeting by teleconferencing or other similar communications equipment must be identifiable when speaking, all Commissioners participating in the meeting must be able to hear each other at the same time, and all members of the public attending the meeting must be able to hear any Commissioner who speaks during the meeting.

K. RULEMAKING

The Secretary shall take the actions necessary to promulgate paragraphs (E), (I) and (J) of this Policy as a Department rule or rules.

Agenda Item 13b

Initial Rulemaking Action for the
Repeal and Replacement of
NMDOT Rules 18.20.3 NMAC,
Driver Education Schools;
18.20.8 NMAC, Driving Safety
Schools; 18.20.10 NMAC, New
Mexico's Motorcycle Training
Program; 18.20.11 NMAC,
Ignition Interlock Devices; and
7.32.20 NMAC, Driving While
Impaired (DWI) Schools

Commission Brief

SUBJECT: Initial rulemaking action for the repeal and replacement of rules:

1. 18.20.3 NMAC Driver Education Schools
2. 18.20.8 NMAC, Driving Safety Schools
3. 18.20.10 NMAC, New Mexico's Motorcycle Training Program
4. 18.20.11 NMAC, Ignition Interlock Devices
5. 7.32.20 NMAC, Driving While Impaired (DWI) Schools.

The initiation of a proposed rule action involves the STC passing a motion authorizing the Secretary of Transportation to give public notice (at least 30 days) of the repeal and replacement of the rules, and to schedule a public hearing or hearings (following the notice period) to receive oral and written public comment on the proposed rule. At a regular or special STC meeting following the hearing(s) on the proposed rule, the Secretary or designee presents to the STC a final rule action report and recommendation together with the final iteration of the proposed rule. The STC then takes any action it deems appropriate.

When the STC adopts the proposed rule, with whatever alterations the STC deems appropriate, the rule is filed and published as soon as practicable.

PRESENTER: Leann Adams, Traffic Safety Division

BACKGROUND: NMDOT is statutorily responsible for overseeing the following programs pursuant to the Driving School Licensing Act, NMSA 1978, §§ 66-10-1 through 66-10-12. The Act contains rulemaking authority and references to rules specifically pertaining to driver education schools, driving safety schools and motorcycle driver education programs in NMSA 1978, §§ 66-10-6, 66-10-9, and 66-10-11.

The NMDOT is statutorily responsible for the use of ignition interlock devices, manufacturers, service center operators and installers in New Mexico, pursuant to NMSA 1978 §§ 66-5-35 and 66-8-102.

The NMDOT and the STC are statutorily responsible for oversight of persons seeking to operate a DWI school, or serve as a DWI facilitator for DWI programs, in New Mexico, pursuant to NMSA 1978, §§ 9-1-5, 66-7-512 and 66-8-102.

The existing rules for DWI schools, driver education, driver safety and the ignition interlock program have not been updated since 2003. In the intervening years, major changes in technologies and program delivery have occurred; as a consequence, certain modifications to the rule are required at this time.

The existing motorcycle training program rule has not been modified since 1999. There is a technical issue in the existing rule as it references a specific entity as a curriculum and standard model for the training. Since 1999, there have been other programs and standards identified that may be utilized in a motorcycle training program.

A summary of the most significant proposed revisions is attached.

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 to initiate the rulemaking process is necessary (pursuant to the provisions of CP 4) prior to commencement of NMDOT's rulemaking action.

ACTION: Staff requests that the STC initiate a rulemaking action for the repeal and replacement of rules 18.20.3, 18.20.8, 18.20.10, 18.20.11 and 7.32.20. A motion is requested to initiate rulemaking.

2022 Transportation Commission Meeting

New Mexico Department of Transportation Traffic Safety Division

Request: Initiation of proposed rulemaking action

- ▣ **Leann Adams, Staff Manager, Traffic Safety Division**

- ▣ Leann.Adams3@state.nm.us

Driver Education Schools

- Oversight of program mandated in Driving School Licensing Act (§§ 66-10-1 to 66-10-12)
- New Mexico Administrative Code 18.20.3 [Driver Education Rule](#)
- Licensing requirements; program delivery; operating requirements; reporting; suspension/revocation procedures
- 45 for-profit driver education schools, 161 Instructors. 200+ public high school driver education instructors
- Potential updates: Definitions; program delivery updates; technical improvements to improve program efficiency
- Last updated in January 2003.

Driving Safety Schools

- Legislative oversight in §§ 66-10-11
- NMAC 18.20.8 Driving Safety Rule
- Licensing requirements; program delivery; operating requirements; reporting; suspension/revocation procedures
- 17 Driver safety schools, 30 Instructors
- Potential updates: Definitions; program delivery updates; technical improvements to improve program efficiency
- Last updated January 2003

Motorcycle Training Program

- Oversight pursuant to §§ 66-10-9
- NMAC 18.20.10 Motorcycle Training Rule
- Updates: Technical issue with a specific vendor listed in NMAC.
- Program under contract through Motorcycle Safety Foundation
- Last updated January 1999

Ignition Interlock Program

- Oversight of program pursuant to §§ 66-5-502 Ignition Interlock Licensing Act; §§ 66-8-102.3 Interlock Device fund
- NMAC 18.20.11 [Ignition Interlock Rule](#)
- Licensing requirements for device manufacturers, service centers, installers, service technicians; operating requirements, reporting; suspension/revocation procedures
- 8 manufacturers; 68 Service centers; 134 installers; 48 service technicians; 77 mobile sites
- Updates: Definitions; updated National Highway Traffic Safety Administration specification; technical improvements to improve program efficiency
- Last updated 2003

DWI Schools

- Oversight pursuant to 66-8-102 E. “DWI School”
- NMAC 7.32.20 [DWI School Rule](#)
- Licensing requirements; program delivery; operating requirements; reporting; suspension/revocation procedures
- 21 DWI Schools; 47 DWI School facilitators
- Potential updates: Definitions; program delivery updates; technical changes to improve program efficiency
- Last updated 2003

2021 Results

- **For-Profit Driver education students trained: 12,505**
- **Correspondence Driver Education students trained: 1,197**
- **Driving Safety students trained: 1,576**
- **Motorcycle basic and experienced riders trained: 1,241**
- **Ignition Interlock: 10,041 ignition interlock licensed drivers; 791 ignition interlock eligible indigent offenders**
- **DWI School students trained: 2,442**

Request

A motion is requested to initiate the rulemaking process.

Leann.Adams3@state.nm.us

▣ Questions

Agenda Item 13c

Proposal to Transfer Roads
Pursuant to Cooperative
Agreement with the Town of
Bernalillo

Commission Brief

SUBJECT: Briefing on proposal to transfer roads per cooperative agreement with the Town of Bernalillo.

PRESENTER: Justin Gibson, P.E. District 3 Engineer

BACKGROUND:

Upon completing the U.S. 550 corridor the NMDOT has a cooperative agreement for a road transfer agreement between the Town of Bernalillo and New Mexico Department of Transportation. The transfer involves turning over jurisdiction and perpetual maintenance responsibilities for the North and South Backage Roads constructed as part of the first corridor project. (See attached MOU.) The North Backage road is now named Bell Lane and South Backage road is now named Piedra Lisa Road. The proposed transfer will reduce the departments maintenance responsibility. (See map for location.)

ACTION: No Action

Contract No. D15922
Vendor No. 54446
Project No. A301220
Control No. A301220

**COOPERATIVE PROJECT
MAINTENANCE AGREEMENT
I-25/US 550/NM 165 INTERCHANGE
IN THE TOWN OF BERNALILLO**

THIS COOPERATIVE PROJECT FUNDING AND MAINTNENANCE AGREEMENT is made and entered into this 23rd day of Sept., 2012 by and between the **NEW MEXICO DEPARTMENT OF TRANSPORTATION**, ("DEPARTMENT"), and the **Town of Bernalillo**, ("TOWN").

WHEREAS, the DEPARTMENT intends to reconstruct the Interstate 25 and US 550/NM 165 Interchange under Project No. A301220, Control No. A301220; and, Herein referred to as the "PROJECT".

WHEREAS, the interchange reconstruction includes a single point urban interchange (SPUI) configuration, widening US 550 from the NM 313 Intersection to the I-25 interchange, drainage improvements, lighting, signal, signing, striping, sidewalks, ADA upgrades, widening of Rail Runner Avenue, constructing Backage roads north and south of the US 550 and other miscellaneous construction activities; and,

WHEREAS, The TOWN agrees with the Department on the need for the North and South Backage Roads to improve safety and roadway operational efficiency on US 550.

WHEREAS, the Department has agreed to include North and South Backage Roads as part of PROJECT with no cost to TOWN; and,

WHEREAS, the North Backage Road will be built 450 feet on the north side of and parallel to US 550 from Rail runner Avenue to NM 313 (see Exhibit A)

WHEREAS, the South Backage Road will be built 380 feet on the south side of and parallel to US 550 from Rail Runner Avenue terminating at a cul-de-sac 375 feet east of NM 313 (see Exhibit A)

WHEREAS, the north extension of the Rail Runner Avenue, north of NMDOT Right Of Way will be constructed by the Department and will be turned over for ownership and maintenance by the TOWN . (See Exhibit A)

WHEREAS, the North Backage Road, South Backage Roads, and the Extension of Rail Runner Avenue will be herein referred to as the "ROADS"

NOW, THEREFORE, in consideration of the covenants contained herein and pursuant to Section 67-3-28, NMSA 1978, as amended, the parties agree as follows:

SECTION ONE - PURPOSE:

The purpose of this Agreement is to provide an understanding as it relates to the ownership and maintenance of the ROADS. This Agreement shall specify and delineate the rights and duties of the parties hereto.

SECTION TWO - DEPARTMENT SHALL:

1. Act as the lead agency for construction of the ROADS, as described in this agreement, making the construction of the ROADS part of Project No. A301220, Control No. A301220.
2. Be responsible for all project development, project letting and contract award activities.
3. Pay for and acquire all R/W required for construction of the ROADS.
4. Pay for all constructions costs, with exception of utilities, related to the construction of the ROADS.
5. Construct and perform project inspection of the ROADS.
6. Allow TOWN the right to inspect the construction of ROADS.
7. Maintain all records and documents relative to the design, right-of way acquisition, and construction of the ROADS for a minimum of three (3) years.

8. Furnish the TOWN, upon request, all records relevant to this agreement and to allow TOWN and the State Auditor the right to audit all records which support the terms of this agreement.
9. Transfer title of the ROADS to the TOWN upon completion of the PROJECT.

SECTION TWO – TOWN SHALL:

1. Assign a representative/appropriate project staff to act as point of contact and provide any technical assistance for this PROJECT.
2. Review and concur with the design of the proposed construction of ROADS.
3. Provide written acceptance of the construction of the ROADS being conducted as part of Project No. A301220, Control No. A301220.
4. Accept and record the title for the ROADS.
5. Upon completion of the PROJECT, accept ownership of ROADS.
6. Provide perpetual maintenance of the ROADS.

SECTION III: THIRD PARTY BENEFICIARIES:

None of the provisions contained within this Agreement are intended to create in the public or any member thereof a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever, pursuant to the provisions of this Agreement.

SECTION IV: NEW MEXICO TORT-CLAIMS ACT:

Neither the Department nor the TOWN shall be responsible for liability incurred as a result of the other Party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of New Mexico Tort Claims Act (Section 41-4-1, et seq. N.M.S.A. 1978) and any amendments thereto. This paragraph is intended only to define the liabilities between the parties hereto and it is not intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act. By entering into this Agreement, the Department and the TOWN, and their "public employees" as defined in the New Mexico Tort Claims Act, do not waive any sovereign immunity, nor do they waive any limitation(s) of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

SECTION V: SCOPE OF AGREEMENT:

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written Agreement. No prior Agreement or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

SECTION VI: TERMS OF THIS AGREEMENT:

The terms of this Agreement are lawful; performance of all duties and obligations herein shall conform with and do not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

SECTION VII: EQUAL OPPORTUNITY COMPLIANCE:

The Parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States shall, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the parties are found to not be in compliance with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies.

SECTION VIII: APPROPRIATIONS AND AUTHORIZATIONS:

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the Legislature of New Mexico, or the Congress of the United States if federal funds are involved, for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Legislature or the Congress of the United States if federal funds are involved, this Agreement shall terminate upon written notice being given by the Department to the TOWN. The Department is expressly not committed to expenditure of any

funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure by the Department. The Department's decision as to whether its funds are sufficient for fulfillment of this Agreement shall be final.

SECTION IX: SEVERABILITY:

In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement shall remain in full force and effect.

SECTION X: PUBLIC ENTITY SOLE JURISDICTION:

The Department is incorporating this PROJECT into the State Highway System with the exception of the ROADS. The TOWN will be adding the ROADS into the TOWN's Roadway system inventory.

SECTION XI: PROJECT RESPONSIBILITY:

Construction and installation of this PROJECT are the NMDOT's sole responsibility. After the completion of construction of the ROADS, the NMDOT has no future maintenance responsibilities of the said roadways and it will be sole responsibility of TOWN to maintain.

SECTION XII: CONTINGENT ON PROJECT BEING LET FOR CONSTRUCTION:


In the event that Project No. A301220, Control No. A301220 is not let for any reason; this Agreement shall become null and void and shall create no obligation on any of the Parties.

SECTION XIII: AMENDMENT:

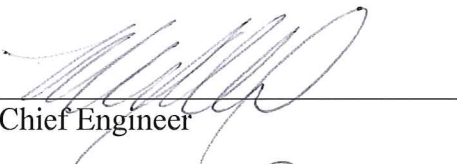
This Agreement shall not be altered, modified, or amended except by an instrument in writing and executed by the Parties hereto.

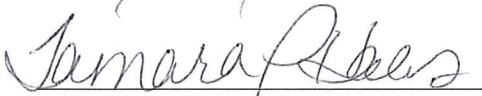
IN WITNESS WHEREOF, the parties have set their hands and seals this day and year set forth below.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By:  Date: 9/23/12
Cabinet Secretary or Designee

Concurrence

By:  Date: 9/19/12
Chief Engineer

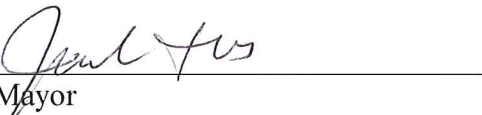
By:  Date: 8/10/12
District 3 Engineer

Approved as to legal form and sufficiency by the New Mexico Department's Office of General Counsel

By:  Date: 8-6-12
Assistant General Counsel

TOWN OF BERNALILLO

By: _____ Date: _____
Chief Administrative Officer

By:  Date: 8-13-12
Mayor

Approved as to legal form and sufficiency by the Town of Bernalillo:


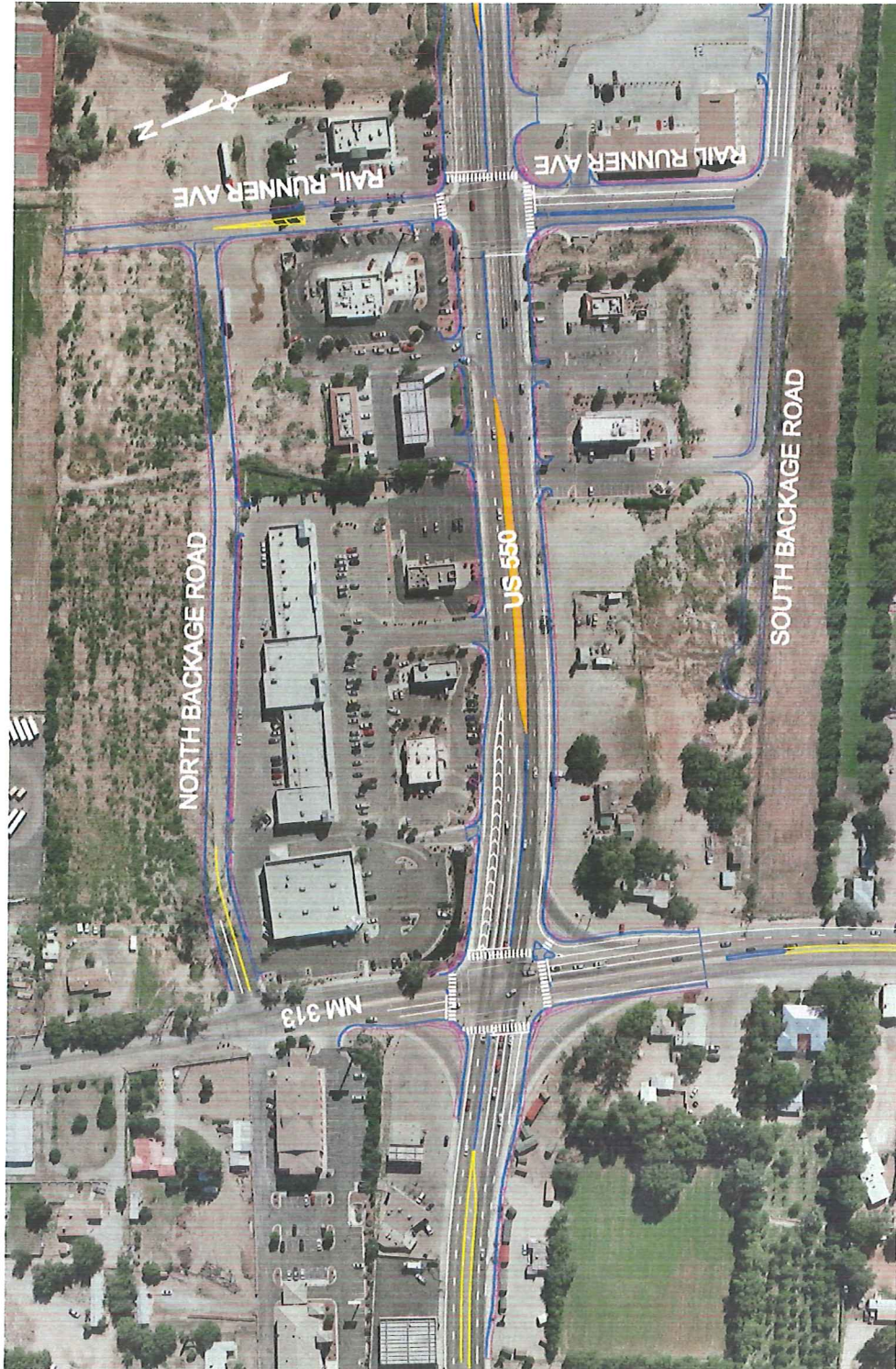
By:  Date: 9/10/12
General Counsel


Exhibit A



US 550 I-25 to NM 313

Map of North and South Backage Roads in Bernalillo proposed transfer from NMDOT to Town of Bernalillo per Cooperative agreement

Legend

-  Bernalillo
-  NM
-  Sandoval County / US 550 Station - Rio Metro



US 550 I-25 to NM

313

Map of North and South Backage Roads in Bernalillo proposed transfer from NMDOT to Town of Bernalillo per Cooperative agreement

Legend

-  Bernalillo
-  NM
-  Sandoval County / US 550 Station - Rio Metro



Agenda Item 13d

Final Rulemaking Action
Regarding Proposed New
NMDOT Rule 18.24.1
NMAC, Autonomous
Motor Vehicle Testing

Commission Brief

SUBJECT: Final rulemaking action regarding proposed new NMDOT Rule 18.24.1 NMAC, *Autonomous Motor Vehicle Testing*

PRESENTER: Charles Remke, ITS Operations Manager, and John Newell, Assistant General Counsel

BACKGROUND:

NMSA 1978, Sections 66-7-12 and 66-7-13 were passed by the legislature and signed by the governor in 2021. These two sections set forth the required information to be provided to the NMDOT prior to testing autonomous motor vehicles on a public Highway in New Mexico and direct the NMDOT to promulgate rules concerning the testing of autonomous motor vehicles on public highways in New Mexico.

Pursuant to Commission Policy 4 (CP 4), following public hearing(s) on the proposed rule, completion of the rulemaking activity for a proposed rule requires the Secretary of Transportation or designee prepare and present the STC a final rule report together with the final draft of the proposed rule. STC approval of the final rule is necessary to implement the new rule. With STC approval to conclude the rulemaking, NMDOT will file the Rule with the New Mexico Commission of Public Records, State Records Center and Archives, for publication in the New Mexico Register. The proposed new rule will become effective upon publication in the New Mexico Register.

NMDOT's ICS Operations completed all the requisite steps in the rulemaking process, including holding public hearings on November 16, 2021 and March 10, 2022 to accept oral and written comments on the proposed new rule. ICS Operations determined that only two of the received comments suggested changes to the proposed rule. The first focused on minor technical changes, and those changes were incorporated into the final rule. The second comment voiced concern with the term "operation" as used in the proposed rule and suggested the term be removed from the rule. ICS Operations determined that the usage of "operation" in the rule is consistent with its use in NMSA 1978, Sections 66-7-12 and 66-7-13 and did not make the suggested changes to the final rule.

REFERENCE DOCUMENTS:

- NMDOT final rulemaking report, recommending adoption of the proposed new rule;
- Final version of proposed new rule; and
- A summary of the comments received and the NMDOT actions on each.

ACTION: NMDOT Staff requests approval to conclude rulemaking action regarding proposed new NMDOT Rule 18.24.1 NMAC.

**RULEMAKING PROCESS FOR
ESTABLISHING REQUIREMENTS FOR

AUTONOMOUS VEHICLE TESTING
IN NEW MEXICO**

PRESENTED TO

NEW MEXICO STATE TRANSPORTATION COMMISSION

JENNIFER SANDOVAL, D-1, VICE-CHAIR

BRUCE ELLIS, D-2

HILMA CHYNOWETH, D-3

WALTER ADAMS, D-4, CHAIRMAN

THOMAS TAYLOR, D-5

CHARLES LUNDSTROM, D-6, SECRETARY

MARCH 24, 2022

ROSWELL, NM

MAY 20, 2021 – Transportation Commission Approved the Initiation of the Rulemaking process to Proposed Rule, 18.24.1 NMAC - Autonomous Vehicle Testing Rule

Public Hearings were held on November 16, 2021, and March 10, 2022.

NMDOT received written comments and/or oral testimony from various entities including:

- **S·A·V·E – Coalition for Safe Autonomous Vehicles and Electrification**
- **Trujillo Law Group**
- **MADD – Mothers Against Drunk Driving**
- **WAYMO**
- **Chamber of Progress**
- **AUVSI – Association for Unmanned Vehicle Systems International**

There were no public comments in objection to the rule; all but one of those providing comments voiced very strong support for it.

All recommended edits provided through public comment were considered for incorporation.

The rationale to include or dismiss each of the recommended edits into the Final Rule is included in our response to comments.

The Rule as written (and amended from public comments) will encourage the advancement and efficient implementation of autonomous vehicle testing in New Mexico that will not impede on maintaining a safe environment for public roadway users.

- **It takes into account existing successful practices in other states**
- **It ensures a common framework is in place for AV testing throughout the state**
- **It avoids inconsistencies with surrounding states that would adversely impact testing across state boundaries**
- **It delineates between the federal and states roles with respect to the advancement of AV technology and does not encroach on those defined authorities.**

Pending the Transportation Commission's Adoption of the Rule and Authorization to Proceed with Publication

Next Steps:

- **Submittal of Rule and Concise Explanatory Statement for Register Publication (15-days after adoption and authorization) – Submittal Needed by April 7th**
- **Concurrent publication of both to the Sunshine Portal and NMDOT Website**
- **Distribute both to stakeholders and anyone who attended the public hearings**
- **Rule becomes effective once published in the register – April 19th**

- **Implementing the Rule's provisions will reside as a Special Projects within the NMDOT**
 - **Notifications and Submittals from AV Developers (via on-line forms)**
 - Credentials of AV Designer/Manufacturer/Implementers
 - Prior coordination with NHTSA
 - Maturity of respective AV programs
 - Record of testing
 - Indemnification and Coverage
 - Crash Response and Police Interaction Plan
 - **Data Base Management**
 - **IPRA Requests**
 - **Reporting Requirements**
 - **Industry Liaison**

Respectfully Requesting the Commission to Approve the Rule and Authorize Publication



Charles Remkes
charles.remkes@state.nm.us
505-490-3308

Presentation Supplemental Information

Historical Context of AV Rulemaking

2021 NEW MEXICO LEGISLATIVE SESSION - REGULAR

HB 270 – AUTONOMOUS VEHICLES

AN ACT RELATING TO MOTOR VEHICLES; ADDING DEFINITIONS TO THE MOTOR VEHICLE CODE; PROVIDING FOR AUTONOMOUS VEHICLES; REQUIRING PERMITS; ALLOWING PLATOONING OF MOTOR VEHICLES

Introduced and Authored by:

Representative Patricia Lundstrom and Representative Harry Garcia

Sponsors Include:

Representative Randal Crowder

Representative Dayan Hochman-Vigil

Representative Joy Garratt

Passed March 19, 2021

Signed by Governor Michelle Lujan Grisham and Became Law on April 6, 2021

Within HB 270 and Specific to the Rulemaking Responsibilities of the Department

SECTION 7. A new section of the Motor Vehicle Code is enacted to read:

"AUTONOMOUS MOTOR VEHICLES--NOTIFICATION AND REGULATION OF TESTING.--

A. Prior to testing an autonomous motor vehicle or an autonomous commercial motor vehicle on a public highway in New Mexico, a person owning or operating such a motor vehicle shall notify the department of transportation at least five calendar days in advance of such operation on a form provided by rule by the department of at least the following information:

- (1) the serial number and type of each motor vehicle to be tested;
- (2) the routes to be used by the motor vehicles;
- (3) the level of automated driving systems to be used by the motor vehicles; and
- 4) such additional information as may be required by the department of transportation by rule.

B. The department of transportation shall promulgate rules regarding the notification and regulation process provided for in Subsection A of this section, including forms to be used and information to be submitted by operators of autonomous motor vehicles and autonomous commercial motor vehicles when testing such motor vehicles on public highways in New Mexico."

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is **July 1, 2022**

Stakeholder Participation Solicited From

Agency Representation:

NMDOT

NMSP

TRD-MVD

OSI

FHWA/FMCSA/NHTSA

Public Representation:

Albuquerque

Las Cruces

Gallup

Santa Fe

Las Vegas

Roswell

Industry Representation:

WAYMO

TUSIMPLE

DAIMLER-BENZ

UPS

ALLIANCE for AUTOMOBILE INNOVATION

Others

Discipline Representation:

NMTA

ITSNM

ITE

AAMVA

AAA NM

NMDOT Rulemaking Committee

Justin Reese, Deputy Secretary

Jerry Valdez, Executive Director

John Newell, Office of the General Counsel

Samantha Baca, Office of the General Counsel

Jeremy Lovato, Chief Information Officer

Charles Remkes, Chief of ITS Operations



Intra-Departmental Correspondence

Date: March 14, 2022

To: Mike Sandoval
Cabinet Secretary

From: Charles Remkes, ITS Operations Manager

A handwritten signature in blue ink, appearing to read "Ch Remkes".

Subject: Final Rulemaking Report – Promulgation of Rule 18.24.1 NMAC, Autonomous Motor Vehicle Testing Rule

At its regular meeting on May 20, 2021, the New Mexico State Transportation Commission (“STC”) authorized the New Mexico Department of Transportation (“NMDOT” or “Department”) to promulgate rules as authorized by NMSA 1978, Sections 66-7-12 and 66-7-13. These statutes, passed by the New Mexico Legislature in 2021, set forth the information that must be provided to the NMDOT prior to autonomous motor vehicles being tested on a public Highway in New Mexico and directed the NMDOT to promulgate rules concerning the testing of autonomous motor vehicles on public highways in New Mexico.

The purpose of proposed Rule 18.24.1 NMAC (“Rule”) is to provide the framework under which owners or operators of autonomous motor vehicles may test such vehicles on public highways in New Mexico and what information the owners and operators of autonomous motor vehicles must provide to the NMDOT prior to testing such vehicles on public highways in New Mexico. A clean copy of the proposed Rule is included in Attachment A.

The proposed Rule and a Notice of Proposed Rulemaking (NPR) were published by NMDOT’s ITS Operations on October 13, 2021 announcing a November 16, 2021 hearing. The notice for the November 16, 2021 public hearing was published in Volume XXXII, Issue 19 of the New Mexico Register, to the New Mexico Sunshine Portal, and on the NMDOT webpage on October 13, 2021. The public hearing was held via Zoom.

The notice was also published on or before October 13, 2021 in six (6) newspapers, one located in each of the NMDOT districts: The Santa Fe New Mexican, the Albuquerque Journal, The Las Vegas Optic, the Roswell Daily Record, the Las Cruces Sun and the Gallup Independent.

When preparing a report based on the November 16, 2021 public hearing, ITS Operations determined that proper notification to the public, as required by the State Rules Act and Commission Policy 4, had not been provided. On February 8, 2022, ITS Operations published the draft proposed rule and a second NOPR in Volume XXXIII, Issue 3 of the New Mexico Register. The draft rule and the second NOPR were also published to the New Mexico Sunshine Portal and on the NMDOT webpage on February 8, 2020. The second public hearing was held on March 10, 2022 via Zoom.

The draft proposed rule and the second NOPR was sent, via email, to all affected NM personnel, all stakeholders, the Legislative Council Service, the Administrative Office of the Courts, the Office of the Attorney General, and the New Mexico Division of the FHWA.

Attachment B contain pertinent related documents including copies of Notices of Proposed Rulemaking, Appointment of Hearing Officer, Hearing Transcript, and Comments Summary.

During the public comment period from date of publication of the first Notice of Proposed Rulemaking through the first public hearing, held on November 16, 2021, the NMDOT received seven written comments, five in support of the rule and two proposing changes. During the November 16, 2021 public hearing, the NMDOT received two comments, both in support of the rule but not proposing changes.

During the public comment period from date of publication of the second Notice of Proposed Rulemaking through the second public hearing, held on March 10, 2022, the NMDOT received one written comment in support of the rule but not proposing changes. During the March 10, 2022 public hearing, the NMDOT received two comments, both in support of the rule but not proposing changes.

All comments and suggestions were duly considered, and the NMDOT revised the rule to reflect those comments that the NMDOT determined to propose necessary revisions to the draft rule.

Changes made to the proposed rule after consideration of comments from the public include:

1. 18.24.1.7(S)(1) was changed to reference the “current standard” for SAE J3016. This changes allows the rule to remain up to date with future changes to the SAE J3016 standard.
2. 18.21.1.7(L)(2) was changed to fix a mistyped word and to align the definition with SAE J3016.
3. 18.24.1.7(D)(3) was changed to align the terminology used with that found in SAE J3016.
4. 18.24.1.7(D)(5) was changed to fix a mistyped word and the align the terminology used with that found in SAE J3016.

5. 18.21.1.7(L)(2) was changed to fix a mistyped word and to align the definition with SAE J3016.
6. 8.24.1.7(M)(1) was changed to fix a mistyped word, to delete a repeated word, and to align the definition with SAE J3016.
7. 18.24.1.13(D) was changed to align the sub-section with the rest of the 18.24.1.13 and to allow any self-reported information to be contained in a database, not just information on crashes, collisions, and violations.

In addition to the changes made pursuant to public comments, 18.24.1.7(F)(3)(a) and 18.24.1.12(A)(4)(C) were changed to correct mistyped words.

Having made the changes listed above, ITS Operations respectfully requests that you approve the finalization of this rulemaking and allow ITS Operations to place the matter on the March 24, 2022 STC meeting agenda to request that the STC approve the final Rule.

ITS Operations is happy to respond to any questions or concerns.

Respectfully submitted,

Charles Remkes,
ITS Operations Manager

Attachments:

Attachment A: Clean copy of proposed new rule

Attachment B: Rulemaking Documents

- Exhibit 1: Appointment of Hearing Officer
- Exhibit 2: October 13, 2021 Notice of Proposed Rulemaking
- Exhibit 3: November 16, 2021 Hearing Transcript
- Exhibit 4: February 8, 2022 Notice of Proposed Rulemaking
- Exhibit 5: March 10, 2022 Hearing Transcript
- Exhibit 6: Comment Summary

Approved:

Michael Sandoval
Cabinet Secretary

Date

Attachment A: Proposed New Rule 18.24.1

TITLE 18 TRANSPORTATION AND HIGHWAY
CHAPTER 24 AUTONOMOUS MOTOR VEHICLES
PART 1 AUTONOMOUS MOTOR VEHICLE TESTING

18.24.1.1 ISSUING AGENCY: New Mexico department of transportation, Post Office Box 1149 Santa Fe, New Mexico 87504-1149 (505) 795-1401.
[18.24.1.1 NMAC - N, xx/xx/2022]

18.24.1.2 SCOPE: This rule covers autonomous motor vehicle testing on public roadways in New Mexico.
[18.24.1.2 NMAC - N, xx/xx/2022]

18.24.1.3 STATUTORY AUTHORITY: Sections 67-3-2, 67-3-11, and 67-3-14 NMSA 1978, and H.B. 270 2021 Legislative Session.
[18.24.1.3 NMAC - N, xx/xx/2022]

18.24.1.4 DURATION: Permanent.
[18.24.1.4 NMAC - N, xx/xx/2022]

18.24.1.5 EFFECTIVE DATE: xx/xx/2022, unless a later date is cited at the end of a section.
[18.24.1.5 NMAC - N, xx/xx/2022]

18.24.1.6 OBJECTIVE: The objective of these regulations is to establish the notification requirements for entities that wish to test autonomous motor vehicles on public roadways in New Mexico.
[18.24.1.6 NMAC - N, xx/xx/2022]

18.24.1.7 DEFINITIONS: As used in these rules the context clearly indicates otherwise, the following definitions apply:

A. Definitions beginning with “A”:

(1) **“Active safety system”** means the vehicle systems that sense and monitor conditions inside and outside the vehicle for the purpose of identifying perceived present and potential dangers to the vehicle, occupants, and other road users, and automatically intervene to help avoid or mitigate potential collisions via various methods, including alerts to the driver, vehicle system adjustments, and active control of the vehicle subsystems (brakes, throttle, suspension, etc.).

(3) **“Automated driving system” or “ADS”** means the hardware and software that are collectively capable of performing the entire dynamic driving task on a sustained basis, regardless of whether it is limited to a specific operational design domain; "automated driving system" is used specifically to describe a level three, four or five driving automation system as defined in Society of Automotive Engineers Standard J3016, as published in the *Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles*.

(4) **“Autonomous commercial motor vehicle”** means a commercial motor vehicle, as defined in Subsection J of Section 66-1-4.3 NMSA 1978, that is equipped with and may be controlled by an automated driving system.

(5) **“Autonomous motor vehicle”** means a motor vehicle that is equipped with and may be controlled by an automated driving system and includes an autonomous commercial motor vehicle.

(6) **“Autonomous motor vehicle operator”** means the person who engages the automated driving system of an autonomous motor vehicle or autonomous commercial motor vehicle.

(7) **“Autonomous motor vehicle tester” or “tester”** means the entity who is testing autonomous motor vehicles on New Mexico public roadways.

(8) **“Autonomous motor vehicle testing” or “autonomous commercial motor vehicle testing”** means activities taken in full or in part to evaluate and assess:

(a) the automated driving system's performance of the dynamic driving task; and
(b) the automated driving system's performance with respect to applicable safety areas as defined by the federal national highway traffic safety administration for autonomous motor vehicle operations.

B. Definitions beginning with “B” [RESERVED]

C. “Commission” means the New Mexico state transportation commission.

D. Definitions beginning with “D”:

(1) **“Department”** means the New Mexico department of transportation.

(2) **“Department secretary”** means the cabinet secretary of the New Mexico department of transportation or his designated representative.

(3) **“Driving automation”** means the performance of part of all of the dynamic driving task by hardware or software on a sustained basis.

(4) **“Dynamic driving task”** as defined in Society of Automotive Engineers Standard (SAE) J3016 all of the real-time operational and tactical functions required to operate a vehicle in on-road traffic, excluding the strategic functions such as trip scheduling and selection of destinations and waypoints, and including without limitation:

(a) lateral vehicle motion control via steering;

(b) longitudinal vehicle motion control via acceleration and deceleration;

(c) monitoring the driving environment via object and event detection, recognition, classification, and response preparation;

(d) object and event response execution;

(e) maneuver planning; and

(f) enhancing conspicuity via elements including but not limited to lighting, signaling, and gesturing.

(5) **“Dynamic driving task fallback”** means the response by the user or by an automated driving system to either perform the dynamic driving task or achieve a minimal risk condition after occurrence of a dynamic driving task performance-relevant system failure(s) or upon exit of the automated driving system’s operational design domain.

E. Definitions beginning with “E” [RESERVED]

F. Definitions beginning with “F”:

(1) **“Fallback-ready user”** means the user of a vehicle equipped with an engaged level 3 automated driving feature who is able to operate the vehicle and is receptive to automated driving system-issued requests to intervene and to evident dynamic driving task performance-relevant system failures in the vehicle compelling him or her to perform the dynamic driving task fallback.

(2) **“Federal motor vehicle safety standards”** or **“FMVSS”** means a motor vehicle safety standard, as defined in 49 U.S.C Section 30102, issued by the National Highway Traffic Safety Administration.

(3) **“Fully autonomous motor vehicle”** means an autonomous motor vehicle that is equipped with an automated driving system designed to function as a level 4 or level 5 system under SAE J3016 and that may be designed to function either:

(a) solely by use of the automated driving system;

(b) by a human driver when the automated driving system is not engaged.

G. Definitions beginning with “G” [RESERVED]

H. Definitions beginning with “H” [RESERVED]

I. Definitions beginning with “I” [RESERVED]

J. Definitions beginning with “J” [RESERVED]

K. Definitions beginning with “K” [RESERVED]

L. “Levels of driving automation” means the functionality of an automated driving system and allocation of roles between a human user (if any) and the driving automation system in performing the dynamic driving task and fallback. Levels of driving automation is categorized into six levels by the SAE in Standard J3016, *Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles*. The six levels include:

(1) Level 0 means ‘no driving automation’ in that the performance by the driver of the entire dynamic driving task even when enhanced by active safety systems.

(2) Level 1 means ‘driver assistance’ in that the sustained and operational design domain-specific execution by a driving automation system of either the lateral or the longitudinal vehicle motion control subtask of the dynamic driving task (but not both simultaneously) with the expectation that the driver performs remainder of the dynamic driving task.

(3) Level 2 means ‘partial driving automation’ in that the sustained and operational design domain-specific execution by a driving automation system of both the lateral and longitudinal vehicle motion control subtasks of the dynamic driving task with the expectation that the driver completes the object event detection and response subtask and supervises the driving automation system.

(4) Level 3 means ‘conditional driving automation’ in that the sustained and operational design domain-specific performance by an automated driving system of the entire dynamic driving task with the expectation that the dynamic driving task fallback-ready user is receptive to automated driving system-issued requests to intervene, as well as to dynamic driving task performance-relevant system failures in other vehicle systems and will respond appropriately.

(5) Level 4 means ‘high driving automation’ in that the sustained and operational design domain-specific performance by an automated driving system of the entire dynamic driving task and dynamic driving task fallback without any expectation that a user will respond to a request to intervene.

(6) Level 5 means ‘full driving automation’ in that the sustained and unconditional (i.e., not operational design domain-specific) performance by an automated driving system of the entire dynamic driving task and dynamic driving task fallback without any exception that a user will respond to a request to intervene.

M. Definitions beginning with “M”:

(1) **“Minimal risk condition”** means a stable, stopped condition to which a user or an automated driving system may bring a vehicle after performing the dynamic driving task fallback in order to reduce the risk of a crash when a given trip cannot or should not be completed.

(2) **“Monitor”** means a general term referencing a range of functions involving real-time human or machine sensing and processing of data used to operate a vehicle, or to support its operation.

(3) **“Monitor automated driving system performance”** means the activities and automated routines for evaluating whether the driving automation system is performing part or all of the dynamic driving task appropriately.

(4) **“Monitor the driving environment”** means the activities and automated routines that accomplish real-time roadway environmental object and event detection, recognition, classification, and response preparation (excluding actual response), as needed to operate a vehicle.

(5) **“Monitor vehicle performance”** means the activities and automated routines that accomplish real-time evaluation of the vehicle performance, and response preparation, as needed to operate a vehicle.

N. Definitions beginning with “N”:

(1) **“National highway traffic safety administration”** or **“NHTSA”** means the operating administration of the United States department of transportation that is delegated the responsibilities described in 49 CFR Section 1.94.

(2) **“NMDOT program administrator”** means that person assigned by the NMDOT to oversee and coordinate the autonomous motor vehicle testing program and when applicable the program manager’s activity.

(3) **“Notification”** means the act of providing required information.

(4) **“Notification receipt”** means formal acknowledgment of having received a notification.

O. Definitions beginning with “O”:

(1) **“Object and event detection and response”** means the subtasks of the dynamic driving task that include monitoring the driving environment (detecting, recognizing, and classifying objects and events and preparing to respond as needed) and executing an appropriate response to such objects and events (i.e., as needed to complete the dynamic driving task and dynamic task fallback).

(2) **“Operate”** means collectively, the activities performed by a (human) driver (with or without support from one or more level 1 or 2 driving automation features) or by an automated driving system (level 3-5) to perform the entire dynamic driving task for a given vehicle during a trip.

(3) **“Operational design domain”** means the specific conditions under which a given driving automation system or feature thereof is designed to function, including, but not limited to, driving modes.

(4) **“Owner”** means the holder of the legal title of a vehicle.

P. “Program manager” or **“contractor”** means, when applicable, that person, firm, or organization selected by the NMDOT for the purpose of administering the autonomous motor vehicle testing program in New Mexico.

Q. Definitions beginning with “Q” [RESERVED]

R. “Request to intervene” means an alert provided by an automated driving system to a driver or fallback-ready user indicating that they should promptly perform the dynamic driving task fallback, resume manual operation of the vehicle, or achieve a minimal risk condition.

S. Definitions beginning with “S”:

(1) “SAE J3016” means the Society of Automotive Engineers current standard for the *Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles*.

(2) “System failure” means a malfunction in an automated driving system and other vehicle system that prevents the automated driving system from reliably sustaining dynamic driving task performance (partial or complete).

(3) “Sustained” (operation of a vehicle) means performance of part or all of the dynamic driving task both between and across external events, including responding to external events and continuing performance of part or all of the dynamic driving task in the absence of external events.

T. “Trip” means the traversal of an entire travel pathway by a vehicle from the point of origin to a destination.

U. Definitions beginning with “U”:

(1) “Usage specification” means a particular level of driving automation within a particular operational design domain.

(2) “User” means a general term referencing the human role in driving automation.

(3) “User receptivity” means an aspect of consciousness characterized by a person’s ability to reliably and appropriately focus their attention in response to a stimulus.

V. Definitions beginning with “V” [RESERVED]

W. Definitions beginning with “W” [RESERVED]

X. Definitions beginning with “X” [RESERVED]

Y. Definitions beginning with “Y” [RESERVED]

Z. Definitions beginning with “Z” [RESERVED]

[18.24.1.7 NMAC - N, xx/xx/2022]

18.24.1.8 RESPONSIBILITY: It shall be the responsibility of each division and section within the department to carry out their pertinent functions relating to programming, design and contracting for each project concerning the autonomous motor vehicle testing program. The department shall handle all phases of the autonomous motor vehicle testing program.

[18.24.1.8 NMAC - N, xx/xx/2022]

18.24.1.9 AUTONOMOUS MOTOR VEHICLE TESTING AND OPERATION:

A. The testing and operating of autonomous motor vehicles on public roads in New Mexico require compliance with all applicable federal and state laws and regulations and municipal ordinance that govern motor vehicle operations, unless an exemption or waiver has been granted from the governing authority.

B. Vehicles equipped with an automated driving system shall meet and follow all applicable federal laws, regulations, and guidelines governing motor vehicles; meet all applicable certificates, title and registration, licensing, and insurance requirements; and be capable of complying with all applicable traffic and motor vehicle safety laws and regulations of the state of New Mexico, unless an exemption or waiver has been granted from the governing authority.

C. For autonomous motor vehicle testing or operating with a human driver:

(1) The person testing or operating the autonomous motor vehicle may be issued a traffic citation or other applicable penalty in the event of a failure to comply with traffic and motor vehicle laws.

(2) Only a trained employee, contractor or other person authorized by the company developing the automated driving system may operate or monitor the performance of the vehicles and automated driving system.

D. For fully autonomous motor vehicle testing or operating without a driver:

(1) Testing or operation of vehicles that do not have a person present in the vehicle shall be allowed only if such vehicles are fully autonomous, and if prior to commencing testing or operation of the fully autonomous motor vehicles, an autonomous motor vehicle testing statement and certification has been submitted to the New Mexico department of transportation acknowledging:

(a) When required by federal law, the fully autonomous motor vehicle is equipped with an automated driving system that in compliance with all applicable federal law and federal motor vehicle safety standards and the vehicle bears the required certification label(s) including reference to any exemption granted under applicable federal law.

(b) If a failure of the automated driving system occurs that renders that system unable to perform the entire dynamic driving task relevant to its intended operational design domain, the fully autonomous motor vehicle will achieve a minimal risk condition.

(c) The fully autonomous motor vehicle is capable of complying with all applicable traffic and motor vehicle safety laws and regulations of the state of New Mexico that do not relate to or support motor vehicle operation by a human driver, and the person testing or operating the fully autonomous motor vehicle may be issued a traffic citation or other applicable penalty in the event the vehicle fails to comply with traffic and motor vehicle laws.

(d) The fully autonomous motor vehicle registered owner is required to ensure it meets all applicable certificate, title registration, licensing, and insurance requirements.

(e) Compliance with the law enforcement protocol and submission of a Law Enforcement Interaction Protocol outlined in Section 18.24.1.10 NMAC.

(2) If a person fails to submit the required documents outlines above, the New Mexico department of transportation has the authority to immediately issue a cease and desist letter revoking any permissions to operate a fully autonomous motor vehicle on New Mexico's public roads, until the person has submitted the statement and is in compliance with laws and regulations relating to fully autonomous motor vehicles. [18.24.1.9 NMAC - N, xx/xx/2022]

18.24.1.10 LAW ENFORCEMENT INTERACTION PROTOCOL:

A. Prior to testing or operating a fully autonomous motor vehicle on New Mexico public roadways without a driver, the autonomous motor vehicle owner shall provide the New Mexico department of public safety and the New Mexico department of transportation a copy of a law enforcement interaction protocol that will instruct first responders in the vicinity of the operational design domain how to interact with the fully autonomous motor vehicle in emergency and traffic enforcement situations. This interaction protocol shall be on file with and available through the New Mexico state police.

B. The law enforcement interaction protocol shall include:

- (1) How to communicate with a fleet support specialist who is available during the times the vehicle is in operation;
- (2) How to safely remove the vehicle for the roadway;
- (3) How to recognize whether the vehicle is in autonomous mode and steps to safely ow the vehicle;
- (4) A description of the cities where the vehicle will be in operation;
- (5) Any additional information the manufacturer or owner deems necessary regarding hazardous conditions or public safety risks associated with the operation of the autonomous motor vehicle.

C. For the purpose of this section, vehicle owner, registration, insurance, and contact information for the fully autonomous motor vehicle can be accessed through the New Mexico motor vehicle division system. Exchange of information, issuance of citations and repair orders with the fully autonomous motor vehicle owner shall be done through the electronic mail or physical mailing address provide, which can be accessed through the MVD system.

D. The law enforcement interaction protocol submitted by the vehicle owner will detail how compliance with the relevant sections of Part 3, Article 7 of Chapter 66, Motor Vehicles, will be ensured in the event of a collision.

- (1) The fully autonomous motor vehicle's owner contact information, registration, and insurance information shall be noted on the New Mexico crash report.
- (2) If injury to a person, damage to any vehicle, or damage to any other property occurred in the collision, the officer shall provide the fully autonomous motor vehicle owner's name, address, and insurance information to the drivers of all other vehicles, any injured parties involved in the collision, and owners of damaged property.
- (3) If the fully autonomous motor vehicle violates a traffic law resulting in the collision, the officer may issue a citation to the registered owner of the vehicle.

E. If the fully autonomous motor vehicle that is operated on a roadway doesn't display license plates for the current registration year, officers shall issue a citation to the vehicle owner.

F. If the fully autonomous motor vehicle does not have documents on file with the New Mexico motor vehicle division that show it meets the financial responsibility requirements under Section 66-5-205 NMSA 1978, officers shall issue a citation to the registered owner of the vehicle.

G. If a fully autonomous motor vehicle becomes disabled as a result of a collision or malfunction, and the owner is unable to provide for its custody or removal, the officer shall remove the vehicle or cause it to be removed for any of the following:

- (1) pursuant to Section 66-7-350 NMSA 1978;
- (2) for seizure pursuant to law;
- (3) for obstruction of traffic;
- (4) when disabled at a gore point;
- (5) when disabled or abandoned in a hazardous location.

H. Officers shall inventory the fully autonomous motor vehicle prior to its removal, documenting the contents and condition of the vehicle on the vehicle removal report.

[18.24.1.10 NMAC - N, xx/xx/2022]

18.24.1.11 LOCATION: The testing or operations of autonomous motor vehicles shall not be restricted by geographic location or roadway type other than as defined by the automated driving system's operational design domain inclusive of any other restrictive limitations inherent to a vehicle's operation.

[18.24.1.11 NMAC - N, xx/xx/2022]

18.24.1.12 NOTIFICATION INFORMATION:

A. Prior to testing or operating a fully autonomous motor vehicle, and in addition to the law enforcement interaction protocol, the vehicle owner shall supply the New Mexico department of transportation with the following:

- (1) owner and business name;
- (2) mailing address;
- (3) physical address;
- (4) contact information including:
 - (a) business telephone number;
 - (b) business fax number;
 - (c) email address;
- (5) business type (sole proprietorship, partnership, LLP, LLC, corporation);
- (6) state where incorporated;
- (7) business principal;
- (8) upon request, make a list of authorized agents and drivers (if applicable);
 - (a) driver's credentials (CDL if applicable);
 - (b) vehicles being tested including:
 - (c) year;
 - (d) make;
 - (e) model;
 - (f) vehicle identification number (VIN).
- (9) level of automation being tested.
- (10) operational design domain being test including:
 - (a) roadway classifications.
 - (i) freeway;
 - (ii) highway;
 - (iii) arterials;
 - (iv) streets;
 - (v) unimproved;
 - (vi) urban;
 - (vii) rural;
 - (viii) other - not included above.
 - (b) environmental limitations:
 - (i) snow;
 - (ii) ice;
 - (iii) limited visibility;
 - (iv) night driving;
 - (v) other - not included above.
 - (c) speeds;

- (d) geo-fencing.
- (11) description of the minimal risk condition for system failure.
- (12) location or areas testing will occur.
- (13) dates and frequency of testing.
- (14) level of autonomous being tested.
- (15) demonstration of having an instrument of insurance, surety bond, or proof of self insurance in an amount of at least \$5 million.
- (16) proof of registration and licensing for each autonomous motor vehicle being tested and operated.

B. The vehicle owner shall supply the New Mexico department of transportation with the forementioned information biennially or when changes occur with the information previously provided, whichever occurs first.

[18.24.1.12 NMAC - N, xx/xx/2022]

18.24.1.13 PROCEDURES TO BE FOLLOWED BY THE DEPARTMENT:

A. The department will make available on on-line information and notification form for submitting the information required in Subsection A of 18.24.1.12 NMAC.

B. Upon submittal of the required information the notifier will receive an acknowledgment receipt from the department. If a person fails to submit that notification required under 18.24.1.12 NMAC, the New Mexico department of transportation has the authority to immediately issue a cease and desist letter suspending operation of the autonomous vehicle on New Mexico's public roads, until the notification has been submitted.

C. The department will maintain a database of current autonomous motor vehicle testing occurring in New Mexico.

D. The database will include information that is ~~on crashes, collisions and violations that are~~ self-reported by the registered autonomous motor vehicle owner.

[18.24.1.13 NMAC - N, xx/xx/2022]

18.24.1.14 FEES: It will be the responsibility of the autonomous vehicle owner to pay all necessary registration, titling, and licensing fees as required under all other relevant regulations specific to motor vehicle registration titling and licensing.

[18.24.1.14 NMAC - N, xx/xx/2022]

HISTORY OF 18.24.1 NMAC:

Pre-NMAC Regulatory Filing History: None

Other History: Content promulgated from law enacted by HB270, 2021 Regular Legislative Session.

Attachment B: Rule Making Documents

Exhibit 1: Appointment of Hearing Officer

New Mexico Department of Transportation

INTRA-DEPARTMENTAL CORRESPONDENCE

DATE: October 12, 2021

TO: David Quintana, P.E., Chief Engineer
New Mexico Department of Transportation

FROM: Michael Sandoval
Secretary of Transportation

SUBJECT: Appointment of Hearing Officer – GO
NMDOT Rule 18.24.1 NMAC Autonomous Motor Vehicle Testing


The New Mexico State Transportation Commission, at its regular meeting held on May 20, 2021, in Albuquerque, New Mexico, by motion made, voted upon and adopted unanimously, and directed me, as the Secretary of Transportation, to (1) initiate rulemaking action to adopt NMDOT Rule 18.24.1 NMAC – Autonomous Motor Vehicle Testing; and (2) 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 the adoption of 18.24.1 NMAC – Autonomous Motor Vehicle Testing.

The hearing is virtual and is scheduled on November 16, 2021, from 1:00 p.m. to 3:00 p.m. at <https://dot-state-nm-us.zoom.us/j/83240956940?pwd=V3ByZGNNd1h2dTdNWdGzdmozSm1uUT09>

Meeting ID: 832 4095 6940
Passcode: 010286
One tap mobile
+13462487799,,83240956940# US (Houston)
+16699006833,,83240956940# US (San Jose)

Approved:



Michael Sandoval (Oct 14, 2021 09:16 MDT)
Michael Sandoval
Secretary of Transportation

Oct 14, 2021

Date

IDC_Sectry's_Appt_of_Hearing_Officer_18.24.1

Final Audit Report

2021-10-14

Created:	2021-10-14
By:	Jolene Casados (jolene.casados2@state.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAACL8zc7pfiLCwKgXf2OuXCrAm6c44FiZv

"IDC_Sectry's_Appt_of_Hearing_Officer_18.24.1" History

-  Document created by Jolene Casados (jolene.casados2@state.nm.us)
2021-10-14 - 3:11:01 PM GMT- IP address: 164.64.74.20
-  Document emailed to Michael Sandoval (michael.sandoval1@state.nm.us) for signature
2021-10-14 - 3:11:24 PM GMT
-  Email viewed by Michael Sandoval (michael.sandoval1@state.nm.us)
2021-10-14 - 3:11:41 PM GMT- IP address: 73.242.240.34
-  Document e-signed by Michael Sandoval (michael.sandoval1@state.nm.us)
Signature Date: 2021-10-14 - 3:16:49 PM GMT - Time Source: server- IP address: 73.242.240.34
-  Agreement completed.
2021-10-14 - 3:16:49 PM GMT

Attachment B: Rule Making Documents

Exhibit 2: October 13, 2021 Notice of Proposed Rule Making

NOTICE OF PROPOSED RULEMAKING

The New Mexico Department of Transportation (NMDOT) is proposing a new rule, 18.24.1 NMAC, Autonomous Vehicle Testing Rule.

Approval of the initial rulemaking action for the proposed new rule was granted to NMDOT by the New Mexico State Transportation Commission on May 20, 2021, pursuant to Sections 9-15, 67-3-8 and 67-3-11, NMSA 1978. The legal authority authorizing this rulemaking is Section 66-7-12 and 66-7-13, NMSA 1978.

Summary of Full Text: Title 18, Chapter 24, Part 1, Autonomous Vehicle (AV) Testing introduces definitions that are specific to AV as established in the Society of Autonomous Engineers (SAE) Standard J-3016, the standard recognized by National Highway Traffic and Safety Administration (NHTSA), the federal regulatory authority on AV operations. It also establishes the required information to be submitted to the New Mexico Department of Transportation prior to testing and operations of AVs on public roadways. It establishes the necessary content of a Police Interaction Plan that must be in place by an AV tester in the event of a crash involving the operations and/or testing of an AV on public roadways. It establishes the minimum liability coverage for AV operations and/or testing on public roadways.

Purpose: The purpose for this rule is to implement the newly enacted Autonomous Vehicle Testing Rule.

Full Text of the Proposed Rule: A copy of the full text of the proposed new rule 18.24.1 NMAC may be found on the NMDOT website at the following Internet link, under the *Public Notices* tab: <https://dot.state.nm.us/content/nmdot/en/public-notice.html>. To obtain a printed copy of the proposed amended rule, contact Merishawn Griego at (505) 216-8831 or MerishawnC.Griego@state.nm.us. A reasonable fee may be charged for printed copies.

Rulemaking Hearing: NMDOT will hold one statewide virtual public hearing for the purpose of receiving oral and written public comment from interested parties on the proposed repeal and replacement of 18.24.1 NMAC. This hearing will be held in conformance with the Governor's directives regarding gatherings and social distancing. The hearing is scheduled on Tuesday, November 16, 2021 from 1:00 p.m. to 3:00 p.m. To participate in this hearing:

Join Zoom Meeting:

<https://dot-state-nm-us.zoom.us/j/83240956940?pwd=V3ByZGNNd1h2dTdNWdGzdmozSm1uUT09>

Meeting ID: 832 4095 6940

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877 853 5257 US Toll-free

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Find your local number: <https://dot-state-nm-us.zoom.us/j/83240956940?pwd=V3ByZGNNd1h2dTdNWdGzdmozSm1uUT09>

Written Comments: To submit written comments on or before the date of hearing, please send to: Merishawn Griego at New Mexico Department of Transportation, P.O. Box 1149, Santa Fe, New Mexico 87504 or submit via

email to MershawnC.Griego@state.nm.us. Written comments will be accepted from the date this notice is published in the New Mexico Register, October 13, 2021, and until the close of the final hearing scheduled in this rulemaking, November 16, 2021. If you plan to submit written comments, argument, or data, please make sure any documentation contains your name, phone number and email address. If submitting written comments by email, please indicate the rule number in the subject line. Oral comments will only be accepted at the public hearing and may be subject to time limitations. After the close of the final hearing scheduled in this rulemaking, the rulemaking record will be closed and no other comments will be accepted. All written comments will be posted on the department's website within three days of receipt.

Accommodations: 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 revisions in an accessible form may contact Mershawn Griego at (505) 216-8831 or MershawnC.Griego@state.nm.us at least ten days before the hearing.

Attachment B: Rule Making Documents

Exhibit 3: November 16, 2021 Hearing Transcript

1 THE NEW MEXICO DEPARTMENT OF TRANSPORTATION
2 RULEMAKING HEARING
3 TUESDAY, NOVEMBER 16, 2021
4 1:00 P.M.

5
6
7 RULE 18.24.1 NMAC
8 AUTONOMOUS VEHICLE TESTING RULE

9
10
11 ZOOM VIDEO CONFERENCE HEARING

12
13
14 BEFORE: DAVID QUINTANA, HEARING OFFICER (remote)

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21
22
23 REPORTED BY: KIM KAY SHOLLENBARGER, RPR
24 PAUL BACA PROFESSIONAL COURT REPORTING
25 500 4TH STREET, NORTHWEST, SUITE 105
ALBUQUERQUE, NEW MEXICO 87102

1 HEARING OFFICER QUINTANA: Good afternoon,
2 everybody. We'll go ahead and get started. It's one o'clock
3 by my time here, so I want to be sure we get started on time.

4 Good afternoon, this is a public hearing. This is a
5 public hearing on Notice for Proposed Rulemaking published in
6 the New Mexico Register on November 16th, 2021 for Proposed
7 New Rule 18.24.1 NMAC. My name is David D. Quintana, I am
8 employed by the New Mexico Department of Transportation;
9 hereafter, referenced as the Department.

10 Pursuant to New Mexico Statutes Annotated, Sections
11 67-3-2 and 67-3-11 and to the New Mexico State Transportation
12 Commission's Commission Policy 4, I have been appointed by
13 the Cabinet Secretary of the Department to serve as the
14 Hearing Officer for this public hearing.

15 I would like to welcome everyone that is present
16 today to this public hearing. Please note, copies of the
17 Notice of Proposed Rulemaking were made available on the
18 Department's website and on the New Mexico Sunshine Portal.

19 Please utilize the chat box to sign in, giving your
20 full name, email address, physical address and phone number
21 that way we can be sure to contact you. When you are called
22 upon to speak, please state your name clearly and state
23 whether you represent a particular organization or if you are
24 here on your own behalf.

25 In order to make sure that the Department collects

1 all the information it is obligated to collect pursuant to
2 the New Mexico State Rules Act found at New Mexico State
3 Annotated Sections 14-4-1 through 14-4-11, I will also ask
4 you if you have entered your name and contact information on
5 the chat box before you begin to speak.

6 The chat box is very important to the Department
7 because the New Mexico State Rules Act requires that the
8 Department follow up with you at the time the final rule is
9 approved by the State Transportation Commission adopted by
10 the Department and then published in the New Mexico Register.

11 I will remind you again to please make sure you have
12 put your name in the chat box, your email address, and make
13 sure that if you have a phone number that you would like us
14 to contact you, you provide that as well.

15 This public hearing is scheduled to take place from
16 1 p.m. to 3 p.m. today, November 16th, 2021. The purpose of
17 this public hearing is for the Department to receive oral and
18 written comments on the Proposed New Rule Number 18.24.1
19 NMAC, Autonomous Vehicle Testing.

20 The purpose of this rulemaking is two. One, enact
21 Rule Number 18.24.1 NMAC pursuant to Sections 66-7-12 and
22 66-7-13 NMSA 1978 and to implement the authorized Autonomous
23 Vehicle Testing Rule.

24 A certified court reporter is present at this public
25 hearing. The court reporter will actually record any and all

1 comments made regarding the New Rule 18.24.1 NMAC. Following
2 this public hearing the court reporter will prepare a
3 verbatim transcript of the proceedings.

4 The following documents will be added to the
5 transcript of the hearing as exhibits. Exhibit A, Notice of
6 Proposed Rulemaking. And Exhibit B, Rule 18.24.1, Autonomous
7 Motor Vehicle Testing Draft Proposed Rule.

8 Following the public hearing, pursuant to the State
9 Rules Act, the Department will issue a concise explanatory
10 statement containing the date the State Transportation
11 Commission adopted the proposed new rule, the statutory
12 authority supporting the proposed new rule and any findings
13 made as required by law.

14 Accordingly, all parties here present and all
15 parties requesting information regarding the proposed new
16 rule will therefore have the benefit of receiving the same
17 information regardless of whether they attended all or a
18 portion of this hearing.

19 This hearing is not subject to, nor is it being
20 conducted pursuant to New Mexico Rules of Evidence; however,
21 everyone present today that would like to provide comments
22 will be given an opportunity to do so.

23 I am asking all public hearing participants who wish
24 comment on the proposed rule amendments to please limit their
25 comments to a maximum of five minutes in order to ensure that

1 all who wish to speak today will have adequate time to do so.
2 If you do go over the allotted time limit I will politely ask
3 you to wrap up your comments after your time has expired. If
4 there is time at the end of the public hearing for a second
5 round of comments, I may call upon you again to add to your
6 comments if you wish to do so.

7 Please also be advised that you are welcome to
8 submit your comments in writing as well. If you plan to
9 submit comments in writing today, please make sure you
10 clearly identify yourself on the written documents with your
11 name, email address and any other contact information you may
12 want to provide. All written comments regarding this
13 rulemaking must be received on or before 3 p.m. today,
14 November 16th, 2021.

15 The public hearing on the Proposed New Rule Number
16 18.24.1 NMAC, Autonomous Motor Vehicle Testing is now open.
17 Present today is the following New Mexico Department of
18 Transportation employees: We have Mr. Jerry Valdez,
19 Executive Director, NMDOT. We have Mr. John Newell, Office
20 of General Counsel. We have Mr. Charles Remkes, our ITS
21 Bureau Chief and we have Jeremy Cok, also with our ITS
22 section. And I believe that is all that we have from NMDOT
23 today.

24 Anyone wishing to provide public, please raise your
25 hand using the Zoom interface. Again, if you wish to give

1 comments, please use the Zoom interface and raise your hand.

2 And we can go ahead and begin public comments now.

3 Mr. Wolf, Ariel Wolf.

4 MR. WOLF: Members of the Department, my name is
5 Ariel Wolf and I serve as General Counsel to the Self-Driving
6 Coalition for Safer Streets. Thank you for giving me the
7 opportunity to provide commentary in support of the proposed
8 Autonomous Vehicle Testing Rule.

9 By way of background, the Self-Driving Coalition was
10 founded in April of 2016 by Ford Motor Company, Waymo, which
11 at that time Google Self-Driving Car Project, with Volvo cars
12 among others. Since then we are proud to have added many new
13 members consisting of the world's leading technology,
14 trucking, ride-sharing and automotive companies.

15 This cross-section of companies demonstrates the
16 wide-spread interest in developing AV technology across
17 different sectors. And despite their different backgrounds,
18 these companies continue to come together to form a coalition
19 because of their commitment to bringing the tremendous
20 potential safety and mobility benefits of autonomous vehicles
21 to consumers in a safe and shift manner.

22 The coalition's mission is to realize the benefits
23 of autonomous vehicles, otherwise known as SAE Levels 4 and 5
24 capable vehicles and support the safe the rapid deployment of
25 these technologies.

1 Autonomous driving technology offers significant
2 potential safety and mobility benefits, holding the potential
3 of both to save lives and to change the way we drive. As
4 members of this committee may know, this agency, the National
5 Highway Traffic Safety Administration estimates that more
6 than 36,000 Americans died in motor vehicle crashes in 2018,
7 the overwhelming majority of which were due to human error.

8 Additionally, based on new statistics from NHTSA
9 more Americans died on the road in the first six months of
10 2021 than any first half year over the past decade and a
11 half. However, because autonomous vehicles remove human
12 error from the driving process, these vehicles hold the
13 potential to save thousands of lives each year,

14 Moreover, New Mexico is home to millions of
15 individuals, including seniors and those with visual
16 impairments who would benefit greatly from the increased
17 safety and mobility that AVs can provide. For individuals
18 like these were too frequently excluded from the traditional
19 transportation options, autonomous vehicles hold tremendous
20 potential to transform mobility, broaden economic
21 participation and support greater independence.

22 In addition to offering safety and mobility benefits
23 autonomous driving technology can also help reduce traffic
24 congestion, improve environmental quality and advance
25 transportation efficiency. For example, autonomous trucks

1 hold the promise of increasing the safety and efficiency of
2 freight movement. A freight network that includes autonomous
3 trucks can lower costs and reduce time to market for New
4 Mexico's agricultural, manufacturing, retail and other
5 industries.

6 This year New Mexico acknowledged the tremendous
7 potential safety and mobility benefits of AVs by enacting
8 HB270 to expressly enable AV operations in the state. The
9 coalition is encouraged by the Department's continued
10 commitment to AV operations and desires to swiftly implement
11 HB270 through proposed regulations.

12 We believe the regulations as written will allow New
13 Mexico to create a pro-competitive and level playing field to
14 safely test and deploy AVs in New Mexico. And as a result,
15 will allow the many benefits of AVs to be brought to New
16 Mexicans safely and rapidly.

17 The coalition therefore supports the Department's
18 rulemaking effort and looks forward to continuing to work
19 with the Department to bring the benefits of AVs to New
20 Mexico.

21 Thank you for your time and consideration.

22 HEARING OFFICER QUINTANA: Mr. Wolf, thank you very
23 much, appreciate the comments. Next up we have Ms. Montana
24 Williams. Please provide your comments, thank you. You have
25 five minutes.

1 MS. WILLIAMS: Good afternoon. My name is Montana
2 Williams and I am the Director of State and Local Public
3 Policy with the Chamber of Progress, a center-left tech
4 industry coalition promoting technology's progressive future.
5 Our organization works to ensure that all Americans benefit
6 from technological leaps. Our corporate partners include
7 Cruise, Nuro, Waymo, and Zoox, but our partners don't have a
8 vote or veto over our position.

9 We strongly support the Department of
10 Transportation's proposed Autonomous Vehicle Testing Rule.
11 By taking this smart approach to AV regulation, New Mexico is
12 on its way to being an even safer, more convenient, and more
13 equitable place to live.

14 First, autonomous vehicles will help close the food
15 gap. All New Mexico residents should have access to healthy,
16 affordable food options in their neighborhoods. Residents in
17 low food access areas continue to be plagued by the food
18 desert crisis and are forced to travel far away to get to
19 grocery stores. AV companies like Nuro aim to deliver
20 groceries and food via low-speed, seatless, passengerless
21 autonomous vehicles. This would give New Mexico residents
22 that live outside food-rich areas the same convenient and
23 affordable access to fresh fruits, vegetables, milk, and meat
24 they need to live happily and healthy.

25 Second, autonomous vehicles will help close the

1 accessibility gap. One in four adults in New Mexico live
2 with a disability. Though public transit is available, it's
3 harder for those with disabilities to navigate by bus in
4 times of inclement weather, in times when an accessible stop
5 isn't available, or when there is no room for their equipment
6 on a busy day. For the blind and other people living with
7 disabilities, safe autonomous vehicles can't arrive fast
8 enough.

9 Third, autonomous vehicles will bring safer streets
10 and reduce the number of accidents. In 2020, 398 people died
11 in traffic incidents in New Mexico. Research shows that at
12 least 90 percent of car crashes are caused by human error,
13 and studies suggest that putting AVs on the road now could
14 save hundreds of thousands of lives over the long term. By
15 eliminating cases of distracted drivers, drivers under the
16 influence, or geographically lost drivers, AVs can reduce the
17 number of pedestrian and bike fatalities that occur in the
18 state.

19 Finally, autonomous vehicles will spur new jobs in
20 New Mexico. The Federal Department of Transportation
21 reported earlier this year that the use of automation systems
22 would create jobs in the transportation and logistics
23 industries as well as other business sectors. The U.S.
24 Department of Labor and its state partners have created job
25 transition and retraining programs to assist those affected

1 by the introduction of autonomy. These entities help drivers
2 adapt to new technologies and market conditions, helping them
3 find gainful employment. Driverless vehicles would also cut
4 down the number of turnover the trucking industry faces as
5 most drivers are of retirement age or close to it. And New
6 Mexico is poised to be a national leader in autonomous
7 trucking, bringing thousands of related jobs.

8 With the tremendous potential of autonomous vehicles
9 to make New Mexico a safer and more equitable place, it is so
10 important to test, improve, and deploy autonomous vehicles
11 without delay. For the sake of supporting those with
12 disabilities, addressing food deserts, reducing traffic
13 deaths, and increasing employment opportunities, we encourage
14 you to support the new Autonomous Vehicle Testing Rule.

15 HEARING OFFICER QUINTANA: Thank you, Ms. Williams,
16 appreciate your comments. Just a reminder, anybody who
17 wishes to comment, please raise your hand in the Zoom feature
18 and we will continue to take comments. Ms. Annabel Chang,
19 you are up. You have five minutes.

20 MS. CHANG: Perfect. Thank you. Hi. Thank you to
21 the Department for allowing for public comment. My name is
22 Annabel Chang and I have the pleasure of representing Waymo
23 today as our head of state policy.

24 A little bit of background on Waymo. We are an
25 autonomous driving tech company with a mission to make it

1 safe and easy for people and things to get where they are
2 going. Since our start as a Google Self-Driving Car Project
3 back in 2009, we have been focused on building the world's
4 most experienced driver.

5 So just as background, we have been working on this
6 for more than 12 years now at this point. Our Waymo driver
7 powers both the Waymo 1, our first fully autonomous
8 commercial ride-hailing service, as well as Waymo Via, our
9 trucking and local delivery unit.

10 In the trucking space we believe the Waymo driver
11 can make trucking safer, stronger and more efficient. We've
12 already been testing our trucking technology along the I-10
13 corridor between Phoenix and Tucson and across New Mexico and
14 Texas. And New Mexico is a critical, critical component here
15 of the I-10 corridor.

16 Waymo is pleased to formally support the proposed AV
17 testing Rule 18.24.1, which would establish regulations for
18 the testing of AV in the State of New Mexico. And we
19 appreciate it in the last year the opportunity to collaborate
20 with the Department on these regulations and we commend the
21 proposed regulations for their streamlined approach to AV
22 testing.

23 We believe the regulations as currently outlined
24 will enable New Mexico to attract companies like Waymo to
25 test and continue to operate vehicles in the state and we

1 believe it will also lead to increased economic benefit for
2 all of New Mexico.

3 And we look forward to continue to work with your
4 office and the Department as these regulations take effect
5 and we increase our in-state operations in New Mexico.

6 Thank you for your time today.

7 HEARING OFFICER QUINTANA: Thank you, Ms. Chang, for
8 your comments, appreciate them. Again, just raise your hand
9 in the chat feature if you would like to add any more
10 comments.

11 I'm not seeing any additional hands up. Still no
12 hands. Still no hands. So I assume everybody who wanted to
13 speak on behalf of the rulemaking has done so and I guess,
14 John, we're obligated to stay on for the full two hours and
15 just wait this out?

16 MR. NEWELL: We are, yes. Every once in awhile,
17 maybe every 15 minutes, just ask if anybody has comments.

18 HEARING OFFICER QUINTANA: Perfect. In the
19 meantime, I'll just keep an eye out for hands and I'll keep
20 reaching out for comments every 15 minutes or so.

21 (pause at 1:19 p.m.)

22 HEARING OFFICER QUINTANA: I think we might have
23 gotten a few new people in the Zoom. If you would like to
24 make a comment for this proposed rulemaking, please raise
25 your hand in the Zoom feature and you will have five minutes

1 for your comments.

2 (pause)

3 HEARING OFFICER QUINTANA: Everybody, just a
4 reminder, if you want to make any comments use your raise
5 hand feature on Zoom and we can accept your comments you will
6 have five minutes.

7 (pause)

8 HEARING OFFICER QUINTANA: I want to touch base
9 again to see if there's any questions or comments to the
10 public hearing out there. If there are, please raise your
11 hand in the Zoom and you will have five minutes for your
12 comments. Thank you.

13 (pause)

14 HEARING OFFICER QUINTANA: I don't think there's
15 anybody else new on the Zoom public hearing, but anyway just
16 as a reminder, if you want to make a comment, please raise
17 your hand in the Zoom feature and you will be given five
18 minutes for your comments. Thank you.

19 (pause)

20 HEARING OFFICER QUINTANA: About 45 minutes left for
21 the hearing. Again, if you have any comments you want to get
22 recorded, please raise your hand and you'll have five
23 minutes. Thank you.

24 (pause)

25 HEARING OFFICER QUINTANA: We were still accepting

1 comments. If you want to comment on the proposed rules,
2 please raise your hand in Zoom and you will be provided with
3 five minutes. Be sure to provide your contact information,
4 full name, address, email address, before you comment.

5 (pause)

6 HEARING OFFICER QUINTANA: Just want to make sure
7 everybody has had an opportunity to give their comment either
8 orally or written. If you want to add to any of previous
9 comments that you have made, please do so now, just raise
10 your hand for me. We will get ready to conclude this public
11 hearing in about nine minutes. I appreciate all of you
12 attending this, and I will be looking for any hands just in
13 case there's some additional comments.

14 (pause)

15 MR. VALDEZ: We have one more minute. We apologize,
16 David Quintana's Internet connection went down so he asked me
17 to conclude this meeting approximately at three o'clock,
18 3 p.m. And so the period for comments is now closed. Both
19 oral and written comments will no longer be accepted. We
20 want to thank everyone for participation and wish you a
21 wonderful afternoon. Thank you.

22 (Hearing Adjourned at 3:00 p.m.)
23
24
25

1 REPORTER'S CERTIFICATE

2 I, Kim Kay Shollenbarger, Registered Professional
3 Reporter, do hereby certify that I reported the foregoing
4 proceedings in stenographic shorthand via Zoom and that the
5 foregoing pages are a transcript of those proceedings taken
6 to the best of my ability and were reduced to printed form by
7 me to the best of my ability.

8 I FURTHER CERTIFY that I am neither employed by nor
9 related to any of the parties in this case and that I have no
10 interest in the final disposition of this case.

11

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Kim Kay Shollenbarger, RPR

Attachment B: Rule Making Documents

Exhibit 4: February 8, 2022 Notice of Proposed Rule Making

NOTICE OF PROPOSED RULEMAKING

The New Mexico Department of Transportation (NMDOT) is proposing a new rule, 18.24.1 NMAC, Autonomous Vehicle Testing Rule.

Approval of the initial rulemaking action for the proposed new rule was granted to NMDOT by the New Mexico State Transportation Commission on May 20, 2021, pursuant to Sections 9-15, 67-3-8 and 67-3-11, NMSA 1978. The legal authority authorizing this rulemaking is Section 66-7-12 and 66-7-13, NMSA 1978.

Summary of Full Text: Title 18, Chapter 24, Part 1, Autonomous Vehicle (AV) Testing introduces definitions that are specific to AV as established in the Society of Autonomous Engineers (SAE) Standard J-3016, the standard recognized by National Highway Traffic and Safety Administration (NHTSA), the federal regulatory authority on AV operations. It also establishes the required information to be submitted to the New Mexico Department of Transportation prior to testing and operations of AVs on public roadways. It establishes the necessary content of a Police Interaction Plan that must be in place by an AV tester in the event of a crash involving the operations and/or testing of an AV on public roadways. It establishes the minimum liability coverage for AV operations and/or testing on public roadways.

Purpose: The purpose for this rule is to implement the newly enacted Autonomous Vehicle Testing Rule.

Full Text of the Proposed Rule: A copy of the full text of the proposed new rule 18.24.1 NMAC may be found on the NMDOT website at the following Internet link, under the *Legal Notices* link: <https://www.dot.nm.gov/public-legal-notice/>. To obtain a printed copy of the proposed amended rule, contact Mershaw C. Griego at (505) 216-8831 or MershawC.Griego@state.nm.us. A reasonable fee may be charged for printed copies.

Rulemaking Hearing: NMDOT will hold a statewide virtual public hearing for the purpose of receiving oral and written public comment from interested parties on the proposed repeal and replacement of 18.24.1 NMAC. This hearing will be held in conformance with the Governor's directives regarding gatherings and social distancing. The hearing is scheduled on Thursday, March 10, 2022, from 3:00 p.m. to 4:00 p.m. To participate in this hearing:

Join Zoom Meeting:

<https://dot-state-nm-us.zoom.us/j/88263148344>

Meeting ID: 882 6314 8344

One tap mobile

+12532158782,,88263148344# US (Tacoma)

+13462487799,,88263148344# US (Houston)

Dial by your location

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 929 436 2866 US (New York)

833 548 0276 US Toll-free

833 548 0282 US Toll-free

877 853 5257 US Toll-free

888 475 4499 US Toll-free

Meeting ID: 882 6314 8344

Find your local number: <https://dot-state-nm-us.zoom.us/j/88263148344>

Written Comments: To submit written comments on or before the date of hearing, please send to: Mershaw C. Griego at New Mexico Department of Transportation, P.O. Box 1149, Santa Fe, New Mexico 87504 or submit via email to MershawC.Griego@state.nm.us. Written comments will be accepted from the date this notice is published in the New Mexico Register, February 8, 2022, and until the close of the final hearing scheduled in this rulemaking,

March 10, 2022. If you plan to submit written comments, argument, or data, please make sure any documentation contains your name, phone number and email address. If submitting written comments by email, please indicate the rule number in the subject line. Oral comments will only be accepted at the public hearing and may be subject to time limitations. After the close of the final hearing scheduled in this rulemaking, the rulemaking record will be closed and no other comments will be accepted. All written comments will be posted on the department's website within three days of receipt.

Accommodations: 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 revisions in an accessible form may contact Mershawn Griego at (505) 216-8831 or MerishawnC.Griego@state.nm.us at least ten days before the hearing.

Attachment B: Rule Making Documents

Exhibit 5: March 19, 2021 Hearing Transcript

Transcript Pending as of 3/14/2022

Attachment B: Rule Making Documents

Exhibit 6: Comment Summary

Attachment B
Exhibit 4: Comment Summary

Entity or Individual Submitting Comment	NMAC Rule Section	Comment	NMDOT Consideration of Comment and Reasons for Adopting/Changing Final Rule and for Accepting/Rejecting Public Comment
<i>Anthony (T.J.) J. Trujillo, Trujillo Law Group</i>	18.24.1.9	Please accept these public comments from Trujillo Law Group regarding 18.24.1 NMAC, Autonomous Motor Vehicle Testing, being considered at the November 16, 2021 public hearing. As stated in the New Mexico Register, the purpose of this rule is to implement the newly enacted Autonomous Vehicle Testing Rule, yet the title for 18.24.1.9 NMAC states “Autonomous Vehicle Testing and Operation” which is not consistent with the title. Section 66-7-12 and 66-7-13, NMSA 1978 do not discuss operation of autonomous vehicles, rather, only testing. Therefore, all language regarding operation of autonomous vehicles should be stricken from the rule.	The NMDOT determined that the use of “operation” in the proposed rule is general in nature rather than technical, as well as consistent with the use of that term as it is found in NMSA 1978, Sections Section 66-7-12 and 66-7-13. As such, the NMDOT did not change the final rule pursuant to the suggestion in this comment.
<i>Mothers Against Drunk Driving</i>	18.24.1	Mothers Against Drunk Driving (MADD) has helped make significant progress in reducing the number of drunk driving fatalities since our founding in 1980. Unfortunately, we still have a long way to go. In New Mexico, drunk driving results in 40% of traffic fatalities and 1,460 injuries annually. To stop drunk driving, we need a combination of strong drunk driving laws with equitable	This is a statement in support of the proposed rule. It is not a comment on the substance of the proposed rule. No action was taken on this comment.

Attachment B
Exhibit 4: Comment Summary

		<p>traffic safety enforcement, educating the public on the consequences of breaking these laws and the pursuit of advanced drunk driving prevention technology systems in all vehicles. It is also important for those over the age of 21 to have a safe ride should they go out to consume alcoholic beverages. To that end, MADD supports autonomous vehicle technology as one of several tools to combat the 100% preventable crime of impaired driving. We support alternative means of transportation that use new and emerging technologies to enable more transportation options throughout the country. MADD knows that New Mexico has been discussing the policies behind these new technology programs and platforms which include companies like Waymo. Of particular interest to MADD is the potential for these new alternatives to take drunk drivers off the road and provide a safe alternative. There are drunk driving crashes on New Mexico roads almost every day. We urge you to support autonomous vehicle technology as soon as possible to expand New Mexican's access to safe rides.</p>	
<i>Aidan Ali-Sullivan, Waymo</i>	18.24.1	Waymo is pleased to submit this letter of support for the proposed Autonomous Vehicle Testing Rule 18.24.1	This is a statement in support of the proposed rule. It is not a comment on the substance of the

Attachment B
Exhibit 4: Comment Summary

		<p>NMAC, which would establish regulations for the testing of autonomous vehicles in the state of New Mexico. Waymo appreciated the opportunity to collaborate with the Department as these regulations were formulated, and commends the proposed regulations for their streamlined approach to autonomous vehicle testing. We believe the regulations, as outlined, will enable New Mexico to attract companies like Waymo to test and operate vehicles in the state, in turn leading to increased economic benefit for all of New Mexico. For background, Waymo is an autonomous driving technology company, founded in California and headquartered in Mountain View, CA. Our mission is to make it safe and easy for people and things to get where they're going. Since our start as the Google Self-Driving Car Project in 2009, Waymo has focused on building the World's Most Experienced Driver to improve the world's access to mobility while saving thousands of lives lost annually to traffic crashes. The Waymo Driver- our in-house built autonomous driving system- powers Waymo Via, our trucking and local delivery unit we plan to test on New Mexico roadways. To date, Waymo has driven over 20 million</p>	<p>proposed rule. No action was taken on this comment.</p>
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Attachment B
Exhibit 4: Comment Summary

		<p>miles autonomously on public roads and driven over 20 billion miles in simulation. In that time, we’ve built a comprehensive safety program to guide our testing and development of fully autonomous driving technology. Waymo currently operates a fleet that includes hybrid and battery electric vehicles, with 600+ vehicles across several states. We’re currently operating the world’s first and only fully autonomous commercial ride hail service in Arizona, and we are also testing our autonomous trucking technology along the I-10 corridor, where the State of New Mexico serves a critical juncture. As Waymo works towards bringing our autonomous passenger and goods transportation service to more customers, clear, harmonized, and industry-supported regulations around autonomous vehicle operations is paramount. Adoption of these autonomous vehicle regulations will ensure New Mexico continues to signal its desire to support autonomous vehicle operations. We look forward to continuing to work with your office as these regulations take effect and we increase our in-state operations.</p>	
<i>Aidan Ali-Sullivan, Waymo</i>	18.24.1.7(S)(1)	We suggest citing a particular version of SAE International’s J3016. This	The definition of “SAE J3016” found in 18.24.1.7(S)(1) references

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Exhibit 4: Comment Summary

		will help to avoid confusion in the future about which version applies. More specifically, we'd suggest creating a definition of "SAE J3016" referencing the most recent, April 2021 version. Then, if New Mexico decides to move to a subsequent version in the future, only that one definition would need to be updated.	the "current standard" rather than a particular dated version of the standard. This allows the rule to remain up to date with future changes to the SAE J3016 standard.
<i>Aidan Ali-Sullivan, Waymo</i>	18.24.1.7(L)(2)	In the definition of "Level 1," to align with SAE J3016, we suggest the following revision: "...with the expectation exception that the driver performs the remainder of the dynamic driving task."	This change was technical in nature and was implemented as suggested.
<i>Aidan Ali-Sullivan, Waymo</i>	18.24.1.7(D)(3)	To align with SAE J3016, we suggest revising the term "Driving Autonomation" to read "Driving Automation."	This change was technical in nature and was implemented as suggested.
<i>Aidan Ali-Sullivan, Waymo</i>	18.24.1.7(D)(5)	To align with SAE J3016 and the term "Dynamic Driving Task," we suggest revising the term "Dynamic Drive Task Fallback" to read "Dynamic Driving Task Fallback."	This change was technical in nature and was implemented as suggested.
<i>Aidan Ali-Sullivan, Waymo</i>	18.24.1.7(M)(1)	In the definition of "Minimal Risk Condition," to align with SAE J3016, we suggest the following revision: "means a stable, stopped condition..."	This change was technical in nature and was implemented as suggested.

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<i>Aidan Ali-Sullivan, Waymo</i>	18.24.1.7(M)(1)	In the definition of “Request to Intervene,” to align with SAE J3016, we suggest the following revision: “means an alert provided by an automated driving system to a driver or fallback-ready user indicating that...”	This change was technical in nature and was implemented as suggested.
<i>Aidan Ali-Sullivan, Waymo</i>	18.24.1.13(D)	In section 18.24.1.13(D), we suggest the following revision: “The database will include information on crashes, collisions and violations that are self-reported by the registered autonomous motor vehicle owner.” We suggest this change for clarity given that the list above in this section does not include "violations," "crashes," or "collisions." The proposed revision would allow for the database to include any self-reported information, without creating any risk of ambiguity about what is and isn't required to be reported.	This change aligned this sub-section with the section as a whole and was implemented as suggested.
<i>Mathew Lipka, Save Coalition</i> <i>Bert Kaufman, Save Coalition</i> <i>Bob de Knuyff, Save Coalition</i>	18.24.1	Thank you for the opportunity to comment on the draft Autonomous Vehicle Testing Rule published by the New Mexico Department of Transportation on October 13, 2021. The Coalition for Safe Autonomous Vehicles and Electrification (SAVE Coalition) wishes to express its support for the draft rule. The SAVE Coalition is composed of companies building all-electric, autonomous vehicles with innovative designs to improve road safety and sustainability. Autonomous	This is a statement in support of the proposed rule. It is not a comment on the substance of the proposed rule. No action was taken on this comment.

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		<p>vehicles have the potential to improve road safety, reduce vehicle emissions, and expand access for people with disabilities or who live in food deserts, and electric vehicles can reduce carbon dioxide and other tailpipe emissions. The advent of autonomous vehicle technology has allowed for industry to go beyond traditional vehicle design and create innovative vehicles not previously contemplated. For example, autonomy allows for vehicles with no driver, enabling dozens of safety innovations in vehicle design — or even vehicles with no occupants at all, just goods. Because SAVE members’ vehicles are designed to be operated by the ADS, they are designed from the ground up for operation without a driver. This creates opportunities to include safety innovations in the design of the vehicle, as well as avoid the human causes of crashes such as distraction and impairment. Section 18.24.1.9 (D) in the draft rule appropriately recognizes existing and emerging autonomous vehicle technologies. These updates will help spur safety innovation, sustainability, and growth in the design of future vehicles. Additionally, it gives companies the confidence they need to invest in the state. We support the inclusion of this section as drafted and</p>	
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		encourage the adoption of this rule. For more information about the SAVE Coalition, please visit www.savecoalition.com or contact Katie Stevens at kstevens@nuro.ai . We appreciate the opportunity to express support for this important rule.	
<i>Montana Williams, Chamber of Progress</i>	18.24.1	<p>We strongly support the Department of Transportation's proposed Autonomous Vehicle Testing Rule 18.24.1 NMAC. By taking this smart approach to AV regulation, New Mexico is on its way to being an even safer, more convenient, and more equitable place to live.</p> <p>First, autonomous vehicles will help close the food gap. All New Mexico residents should have access to healthy, affordable food options in their neighborhoods. Residents in low food access areas continue to be plagued by the food desert crisis and are forced to travel far away to get to grocery stores. AV companies like Nuro aim to deliver groceries and food via low-speed, seatless, passengerless autonomous vehicles. This would give New Mexico residents that live outside food-rich areas the same convenient and affordable access to fresh fruits, vegetables, milk, and meat they need to live happily and healthily.</p>	This is a statement in support of the proposed rule. It is not a comment on the substance of the proposed rule. No action was taken on this comment.

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		<p>Second, autonomous vehicles will help close the accessibility gap. One in four adults in New Mexico live with a disability. 1 Though public transit is available, it's harder for those with disabilities to navigate by bus in times of inclement weather, in times when an accessible stop isn't available, or when there is no room for their equipment on a busy day. For the blind and other people living with disabilities, safe autonomous vehicles can't arrive fast enough.</p> <p>Third, autonomous vehicles will bring safer streets and reduce the number of accidents. In 2020, 398 people died in traffic related incidents in New Mexico. 2 Research shows that at least 90% of car crashes are caused by human error, and studies suggest that putting AVs on the road now could save hundreds of thousands of lives over the long term. By eliminating cases of distracted drivers, drivers under the influence, or geographically lost drivers, AVs can reduce the number of pedestrian and bike fatalities that occur in the state.</p> <p>Finally, autonomous vehicles will spur new jobs in New Mexico. The Federal Department of Transportation reported earlier this year that the use</p>	
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		<p>of automation systems would create jobs in the transportation and logistics industries, and other business sectors. The US Department of Labor and its state partners have created job transition and retraining programs to assist those affected by the introduction of autonomy. These entities help drivers adapt to new technologies and market conditions, helping them find gainful employment. Driverless vehicles would also cut down the amount of turnover the trucking industry faces as most drivers are of retirement age or close to it. And New Mexico is poised to be a national leader in autonomous trucking, bringing thousands of related jobs.</p> <p>With the tremendous potential of autonomous vehicles to make New Mexico a safer and more equitable place, it is so important to test, improve, and deploy autonomous vehicles without delay. For the sake of supporting those with disabilities, addressing food deserts, reducing traffic deaths, and increasing employment opportunities, we encourage you to support the new Autonomous Vehicle Testing Rule 18.24.1 NMAC.</p>	
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<p><i>Association for Unmanned Vehicle Systems International (AUVSI)</i></p>	<p>18.24.1</p>	<p>The Association for Unmanned Vehicle Systems International (AUVSI) is pleased to submit comments in support of the New Mexico Department of Transportation's (NMDOT) proposed new rule governing the testing and operation of autonomous vehicles within the state. AUVSI represents companies and individuals working in the unmanned systems sector, including autonomous trucking and personal delivery device companies. Advances in automated goods movement technologies represent tangible benefits that will be enjoyed by all Americans and this proposed autonomous vehicle rule will play a significant part in delivering those benefits to New Mexicans. Autonomous vehicle technologies will increase road safety, lessen greenhouse gas emissions, and improve our nation's supply chain resiliency. Numerous studies and reports have established these facts, and by propagating this new rule the NMDOT is to be congratulated for ensuring the state does not miss out on those incredible benefits. Automated trucking in particular will transform the trucking industry into a stronger and more profitable enterprise, and with this proposed rule New Mexico will be able to fully take part in this evolution. The</p>	<p>This is a statement in support of the proposed rule. It is not a comment on the substance of the proposed rule. No action was taken on this comment.</p>
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Exhibit 4: Comment Summary

		<p>massive truck driver shortage will be alleviated, current and future truck drivers will benefit from safer roadways, and driver quality of life is likely to increase⁴. Of note in this rulemaking is the proposed Law Enforcement Interaction Plan (LEIP), and AUVSI is proud to support such a strong validation of the importance of the state's law enforcement officials. Interacting with autonomous vehicle technology is a newer practice, and the detailed LEIP creates an environment in which companies and law enforcement officers alike will feel safe and secure in regulating the operation of these vehicles on the roads. Finally, with this proposed rule New Mexico will cement its status as a leader in the adoption of innovative transportation technologies and serve as an example to other states. Autonomous vehicles are a significant value-add to all Americans and with this rulemaking New Mexico is illustrating how government and industry can work together in delivering a better standard of living.</p>	
<i>Ariel Wolf, Self-Driving Coalition</i>	18.24.1	<p>Thank you for giving me the opportunity to provide commentary in support of the proposed Autonomous Vehicle Testing Rule. By way of background, the Self-Driving Coalition was founded in April of 2016 by</p>	<p>This is a statement in support of the proposed rule. It is not a comment on the substance of the proposed rule. No action was taken on this comment.</p>

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		<p>Ford Motor Company, Waymo, which at that time Google Self-Driving Car Project, with Volvo cars among others. Since then we are proud to have added many new members consisting of the world's leading technology, trucking, ride-sharing and automotive companies. This cross-section of companies demonstrates the wide-spread interest in developing AV technology across different sectors. And despite their different backgrounds, these companies continue to come together to form a coalition because of their commitment to bringing the tremendous potential safety and mobility benefits of autonomous vehicles to consumers in a safe and shift manner.</p> <p>The coalition's mission is to realize the benefits of autonomous vehicles, otherwise known as SAE Levels 4 and 5 capable vehicles and support the safe the rapid deployment of these technologies.</p> <p>Autonomous driving technology offers significant potential safety and mobility benefits, holding the potential of both to save lives and to change the way we drive. As members of this committee may know, this agency, the National Highway Traffic Safety Administration estimates</p>	
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		<p>that more than 36,000 Americans died in motor vehicle crashes in 2018, the overwhelming majority of which were due to human error.</p> <p>Additionally, based on new statistics from NHTSA more Americans died on the road in the first six months of 2021 than any first half year over the past decade and a half. However, because autonomous vehicles remove human error from the driving process, these vehicles hold the potential to save thousands of lives each year, Moreover, New Mexico is home to millions of individuals, including seniors and those with visual impairments who would benefit greatly from the increased safety and mobility that AVs can provide. For individuals like these were too frequently excluded from the traditional transportation options, autonomous vehicles hold tremendous potential to transform mobility, broaden economic participation and support greater independence.</p> <p>In addition to offering safety and mobility benefits autonomous driving technology can also help reduce traffic congestion, improve environmental quality and advance transportation efficiency. For example, autonomous trucks</p>	
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		<p>hold the promise of increasing the safety and efficiency of freight movement. A freight network that includes autonomous trucks can lower costs and reduce time to market for New Mexico's agricultural, manufacturing, retail and other industries.</p> <p>This year New Mexico acknowledged the tremendous potential safety and mobility benefits of AVs by enacting HB270 to expressly enable AV operations in the state. The coalition is encouraged by the Department's continued commitment to AV operations and desires to swiftly implement HB270 through proposed regulations.</p> <p>We believe the regulations as written will allow New Mexico to create a pro-competitive and level playing field to safely test and deploy AVs in New Mexico. And as a result, will allow the many benefits of AVs to be brought to New Mexicans safely and rapidly.</p> <p>The coalition therefore supports the Department's rulemaking effort and looks forward to continuing to work with the Department to bring the benefits of AVs to New Mexico. Thank you for your time and consideration.</p>	
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<i>Montana Williams, Chamber of Progress</i>	18.24.1	<p>We strongly support the Department of Transportation's proposed Autonomous Vehicle Testing Rule. By taking this smart approach to AV regulation, New Mexico is on its way to being an even safer, more convenient, and more equitable place to live.</p> <p>First, autonomous vehicles will help close the food gap. All New Mexico residents should have access to healthy, affordable food options in their neighborhoods. Residents in low food access areas continue to be plagued by the food desert crisis and are forced to travel far away to get to grocery stores. AV companies like Nuro aim to deliver groceries and food via low-speed, seatless, passengerless autonomous vehicles. This would give New Mexico residents that live outside food-rich areas the same convenient and affordable access to fresh fruits, vegetables, milk, and meat they need to live happily and healthily.</p> <p>Second, autonomous vehicles will help close the accessibility gap. One in four adults in New Mexico live with a disability. Though public transit is available, it's harder for those with disabilities to navigate by bus in times of inclement weather, in times when an accessible stop isn't</p>	<p>This is a statement in support of the proposed rule. It is not a comment on the substance of the proposed rule. No action was taken on this comment.</p>
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		<p>available, or when there is no room for their equipment on a busy day. For the blind and other people living with disabilities, safe autonomous vehicles can't arrive fast enough.</p> <p>Third, autonomous vehicles will bring safer streets and reduce the number of accidents. In 2020, 398 people died in traffic incidents in New Mexico. Research shows that at least 90 percent of car crashes are caused by human error, and studies suggest that putting AVs on the road now could save hundreds of thousands of lives over the long term. By eliminating cases of distracted drivers, drivers under the influence, or geographically lost drivers, AVs can reduce the number of pedestrian and bike fatalities that occur in the state.</p> <p>Finally, autonomous vehicles will spur new jobs in New Mexico. The Federal Department of Transportation reported earlier this year that the use of automation systems would create jobs in the transportation and logistics industries as well as other business sectors. The U.S. Department of Labor and its state partners have created job transition and retraining programs to assist those affected by the introduction of autonomy. These entities</p>	
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		<p>help drivers adapt to new technologies and market conditions, helping them find gainful employment. Driverless vehicles would also cut down the number of turnover the trucking industry faces as most drivers are of retirement age or close to it. And New Mexico is poised to be a national leader in autonomous trucking, bringing thousands of related jobs.</p> <p>With the tremendous potential of autonomous vehicles to make New Mexico a safer and more equitable place, it is so important to test, improve, and deploy autonomous vehicles without delay. For the sake of supporting those with disabilities, addressing food deserts, reducing traffic deaths, and increasing employment opportunities, we encourage you to support the new Autonomous Vehicle Testing Rule.</p>	
<i>Anabel Chang, Waymo</i>	18.24.1	<p>A little bit of background on Waymo. We are an autonomous driving tech company with a mission to make it safe and easy for people and things to get where they are going. Since our start as a Google Self-Driving Car Project back in 2009, we have been focused on building the world's most experienced driver.</p> <p>So just as background, we have been working on this</p>	<p>This is a statement in support of the proposed rule. It is not a comment on the substance of the proposed rule. No action was taken on this comment.</p>

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		<p>for more than 12 years now at this point. Our Waymo driver powers both the Waymo 1, our first fully autonomous commercial ride-hailing service, as well as Waymo Via, our trucking and local delivery unit.</p> <p>In the trucking space we believe the Waymo driver can make trucking safer, stronger and more efficient. We've already been testing our trucking technology along the I-10 corridor between Phoenix and Tucson and across New Mexico and Texas. And New Mexico is a critical, critical component here of the I-10 corridor.</p> <p>Waymo is pleased to formally support the proposed AV testing Rule 18.24.1, which would establish regulations for the testing of AV in the State of New Mexico. And we appreciate it in the last year the opportunity to collaborate with the Department on these regulations and we commend the proposed regulations for their streamlined approach to AV testing.</p> <p>We believe the regulations as currently outlined will enable New Mexico to attract companies like Waymo to test and continue to operate vehicles in the state and we believe it will also lead to increased economic benefit for all of New Mexico.</p>	
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		<p>And we look forward to continue to work with your office and the Department as these regulations take effect and we increase our in-state operations in New Mexico. Thank you for your time today.</p>	
<p><i>Montana Williams, Chamber of Progress</i></p>	<p>18.24.1</p>	<p>My name is Montana Williams and I am the Director of State and Local Public Policy for the Chamber of Progress, a tech industry coalition promoting technology's progressive future. Our organization works to ensure that all Americans benefit from technological leaps. Our corporate partners include Cruise, Nuro, Waymo, and Zoox, but our partners don't have a vote or veto over our positions. We strongly support the Department of Transportation's proposed Autonomous Vehicle Testing Rule. By taking this smart approach to AV regulation, New Mexico is on its way to being an even safer, more convenient, and more equitable place to live. First, autonomous vehicles will help close the food gap. All New Mexico residents should have access to healthy, affordable food options in their neighborhoods. Residents in low food access areas continue to be plagued by the food desert crisis and are forced to travel far away to get to grocery stores. In some</p>	<p>This is a statement in support of the proposed rule. It is not a comment on the substance of the proposed rule. No action was taken on this comment.</p>

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		<p>communities AVs are delivering groceries and food via low-speed, seatless, passengerless autonomous vehicles. This would give New Mexico residents that live outside food-rich areas the same convenient and affordable access to fresh fruits, vegetables, milk, and meat they need to live happily and healthily. Second, autonomous vehicles will help close the accessibility gap. One in four adults in New Mexico live with a disability. 1 Though public transit is available, it's harder for those with disabilities to navigate by bus in times of inclement weather, in times when an accessible stop isn't available, or when there is no room for their equipment on a busy day. For the blind and other people living with disabilities, safe autonomous vehicles can't arrive fast enough. Third, autonomous vehicles will bring safer streets and reduce the number of accidents. In 2021, 479 people died in traffic related incidents in New Mexico. 2 Research shows that at least 90% of car crashes are caused by human error, and studies suggest that putting AVs on the road now could save hundreds of thousands of lives over the long term. By eliminating cases of distracted drivers, drivers under the influence, or geographically lost drivers,</p>	
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		<p>AVs can reduce the number of pedestrian and bike fatalities that occur in the state. Finally, autonomous vehicles will spur new jobs in New Mexico. In 2021, The Federal Department of Transportation reported that the use of automation systems would create jobs in the transportation and logistics industries, and other business sectors. The US Department of Labor and its state partners have created job transition and retraining programs to assist those affected by the introduction of autonomy. These entities help drivers adapt to new technologies and market conditions, helping them find gainful employment. Driverless vehicles would also cut down the amount of turnover the trucking industry faces as most drivers are of retirement age or close to it. And New Mexico is poised to be a national leader in autonomous trucking, bringing thousands of related jobs to the state. With the tremendous potential of autonomous vehicles to make New Mexico a safer and more equitable place, it is so important to test, improve, and deploy autonomous vehicles without delay. For the sake of supporting those with disabilities, addressing food deserts, reducing traffic deaths, and increasing employment opportunities,</p>	
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		<p>we encourage you to support the proposed Autonomous Vehicle Testing Rule.</p> <p>Thank you</p>	
<i>Katheryn Marshall, Autonomous Vehicle Industry Association</i>	18.24.1	<p>I will note that the Autonomous Vehicle Industry Association does not have comments, but we reiterate the comments Ariel Wolf provided at the previous hearing.</p>	<p>This is a statement in support of the proposed rule. It is not a comment on the substance of the proposed rule. No action was taken on this comment.</p>

Agenda Item 13e

Briefing Regarding
Proposed Lincoln County
Request to Designate
Certain Segments of NM
37 and NM 48 for the
Operation of Recreational
Off-Highway Vehicles

Commission Brief

SUBJECT: Proposed County of Lincoln (“County”) request to designate certain segments of NM 37 and NM 48 for the operation of Recreational Off-Highway Vehicles (“Route Designation Request”).

PRESENTER: Francisco Sanchez, P.E., District 2 Engineer, NMDOT

REFERENCE MATERIAL: County submission package supporting Route Designation Request.

BACKGROUND: In accordance with the Off-Highway Motor Vehicle Act and NMSA 1978, Sections 67-3-2(D), 66-3-1001.1 and 66-3-1011, and pursuant to the provisions of Commission Policy 71, *Recreational Off-Highway Vehicles on Paved State Highways* (“CP 71”), the County has submitted a Route Designation Request to the Commission. The specific state highway segments that the County has requested to be designated as a recreational off-highway vehicle route are (1) more particularly described as: from a point at the northern Village of Ruidoso city limits, mile marker 7.8 on NM 48 north to the intersection of NM 37, thence west on NM 37 to the turnoff to Bonito Lake; and (2) depicted on the map included in the attached package.

ACTION: No action is required at this time. This item is for briefing only.

March 24, 2022

Commission Policy 71 Recreational Off-Highway Vehicles (ROVs) On Paved State Highways

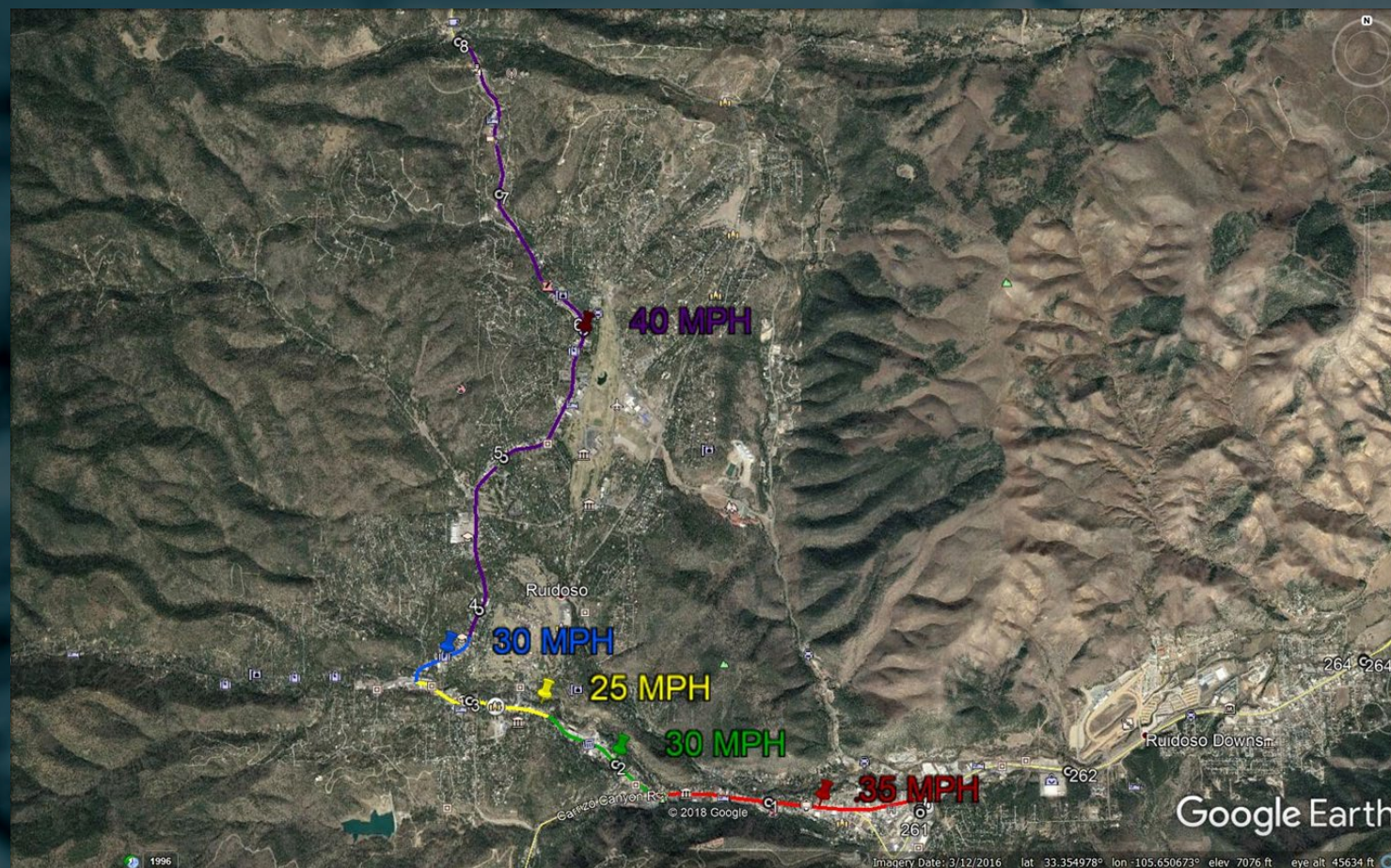
County of Lincoln's Request to Designate Certain Portions of NM 37 and NM 48 for the Operation of Recreational Off-Highway Vehicles ("Route Designation Request")

Francisco Sanchez, PE – District 2 Engineer

Recreational Off-Highway Vehicles on Paved State Highways

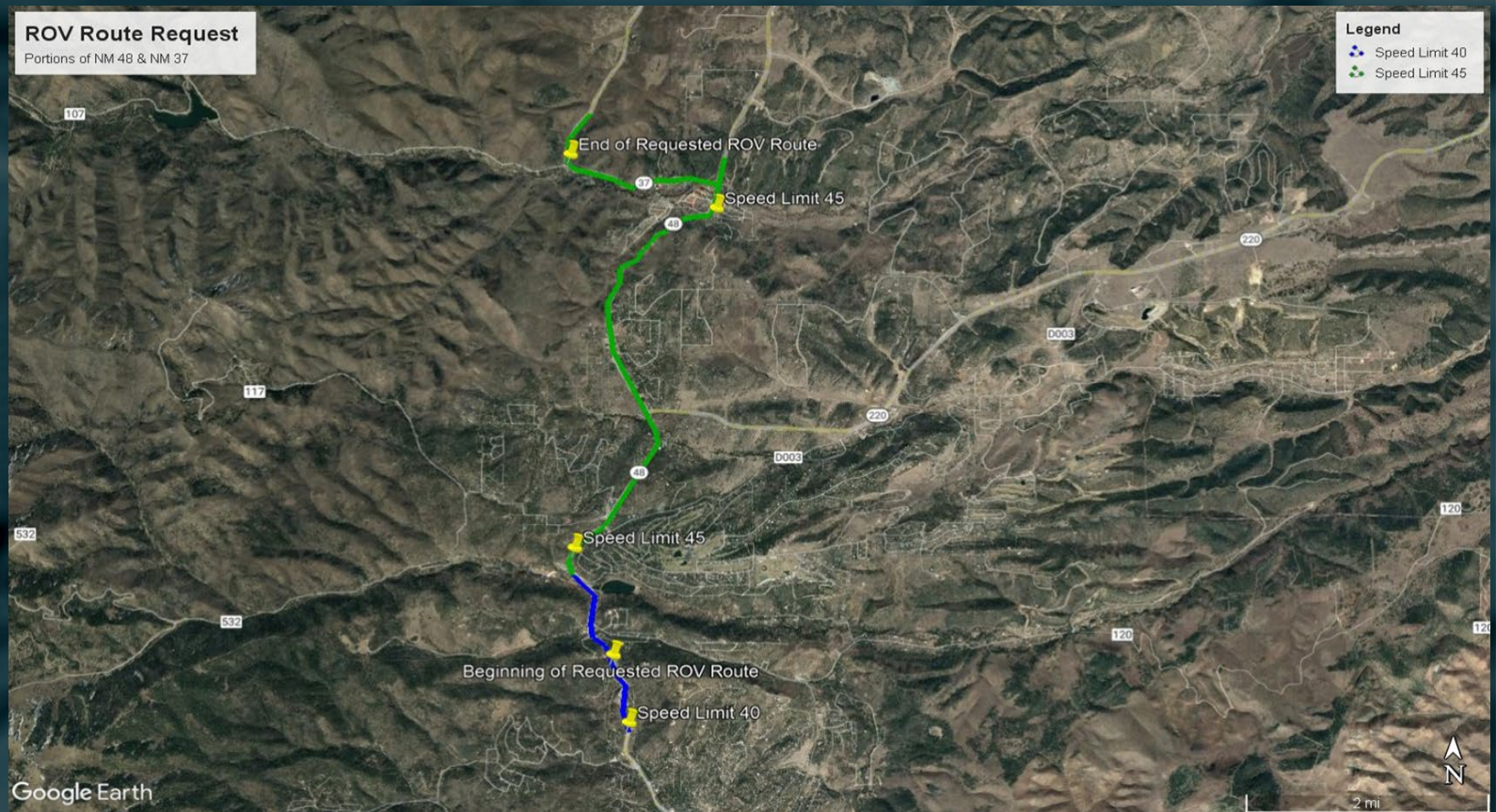
Adopted and Approved by the State Transportation Commission in Open Meeting on August 15, 2019

Village of Ruidoso ROV Route - Eastern Limits (Sudderth Drive) Approximately Mile Marker 0.0 on NM 48 to the Northern Village limits (Mechem Drive) at Approximately Mile Marker 7.8



Recreational Off-Highway Vehicles on Paved State Highways

County of Lincoln ROV Route Request – Northern Village of Ruidoso City Limits, Mile Marker 7.8 on NM 48 Traveling North to the Intersection of NM37: Thence West on NM 37 to the Turnoff to Bonito Lake



Recreational Off-Highway Vehicles on Paved State Highways

NMDOT

“The Commission May Designate Segments of the State Highway System For the Operation of ROVs Where the Use of Such Vehicles Complements the Character of the Community, and Reasonably Safe Conditions Can be Maintained”



ROVs on Paved State Highways

“The Department’s Written Recommendation that ROVs Can be Operated With Reasonable Safety on the Designated Route, Taking Into Consideration the Pavement Condition, Geometry, Road Safety Features, Speed, Crash Date, ROV Safety Standards, and Usage of the Road Segment”



NMDOT

Recreational Off-Highway Vehicles on Paved State Highways



Recreational Off-Highway Vehicles on Paved State Highways

NMDOT

Severity of Crash	Number of Crashes	%
Fatality	0	0.00%
Injury	13	12.26%
Property Damage Only	93	87.74%
Total	106	100.00%

Crash Classification	Number of Crashes	%
Animal	50	47.17%
Fixed Object	19	17.92%
Left Blank/Unknown	1	0.94%
Other Vehicle	26	24.53%
Vehicle on Other Road	2	1.89%
Other Object	3	2.83%
Overturn/Rollover	4	3.77%
Pedalcyclist	1	0.94%
Total	106	100.00%

Total Crashes	106				
Length of Roadway (MP 7.8-13)	5.2 Miles				
Crash Rate (Using Average AADT)	261.74	Accidents per 100 million vehicle miles			

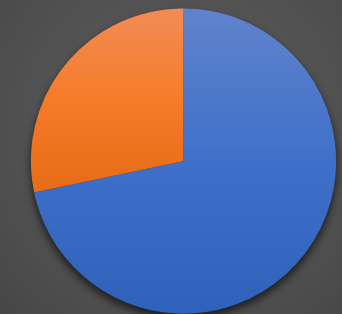
Crash Severity NM 48 MP 7.8 - MP 13
2017 - 2019



AADT Data

Location	AADT	Year
NM 48 @ Gavilan Canyon	8434	2021
NM 48 @ NM 532	7846	2021
NM 48 @ NM 220	5057	2021
Average	7112.33	

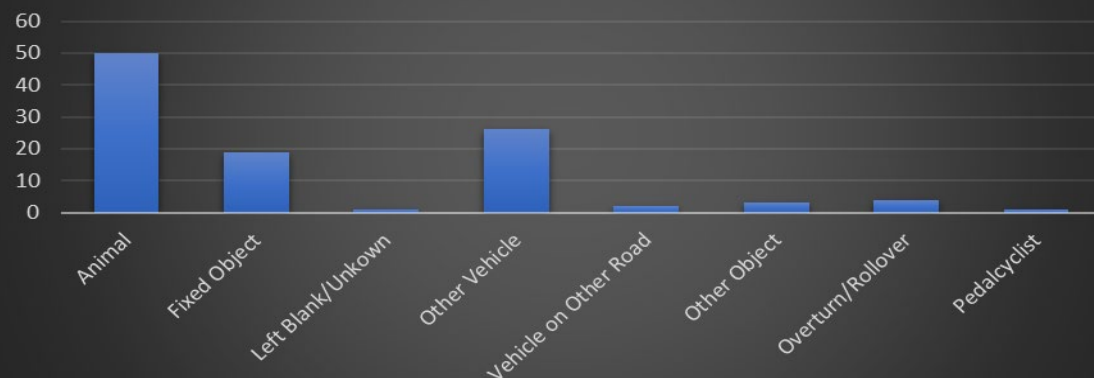
Single Vehicle vs Multiple Vehicles NM 48
MP 7.8 - MP 13 2017 - 2019



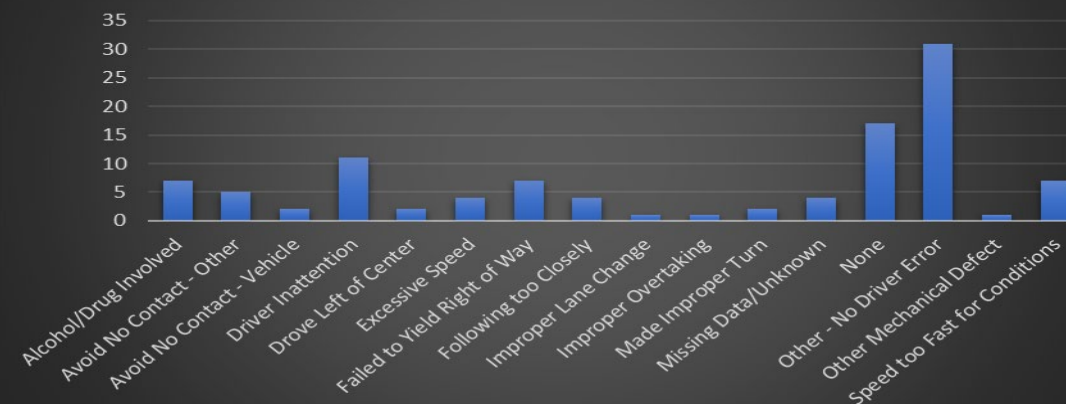
Single Vehicle Two Vehicles

Recreational Off-Highway Vehicles on Paved State Highways

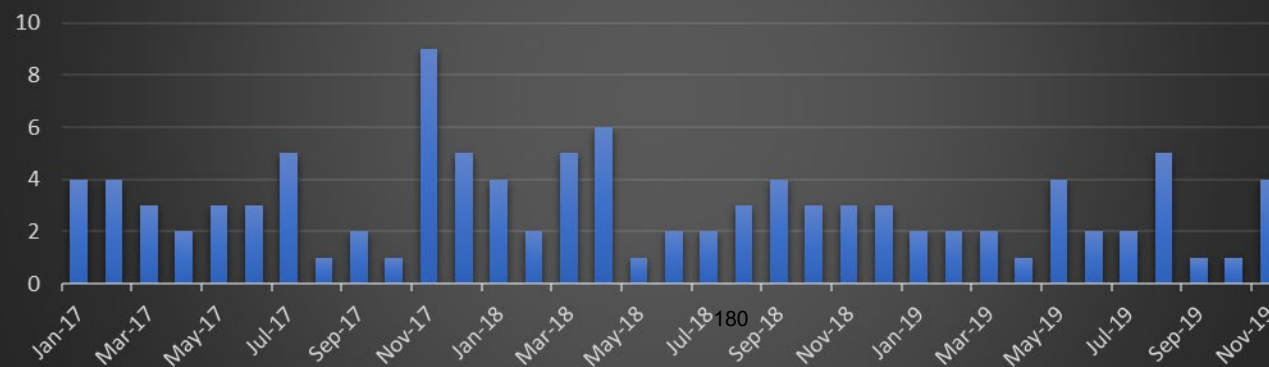
**Crash Classification NM 48 MP 7.8 - MP 13
2017 - 2019**



**Highest Contributing Factor for Crashes
NM 48 MP 7.8 - MP 13 2017-2019**



**Number of Crashes Per Month NM 48 MP 7.8 - MP
13
2017-2019**



Recreational Off-Highway Vehicles on Paved State Highways

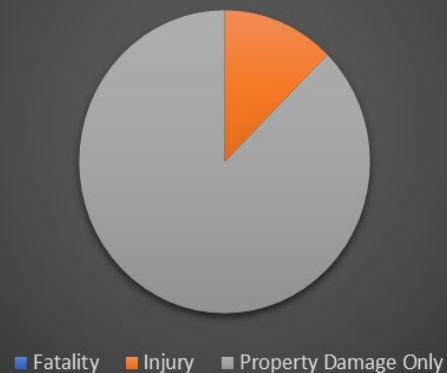
NMDOT

Severity of Crash	Number of Crashes	%
Fatality	0	0.00%
Injury	1	12.50%
Property Damage Only	7	87.50%
Total	8	100.00%

Crash Classification	Number of Crashes	%
Animal	3	37.50%
Fixed Object	0	0.00%
Left Blank/Unkown	0	0.00%
Other Vehicle	2	25.00%
Vehicle on Other Road	0	0.00%
Other Object	1	12.50%
Overturn/Rollover	2	25.00%
Pedalcyclist	0	0.00%
Total	8	100.00%

Total Crashes	8			
Length of Roadway (MP 0-2)	2.0 Miles			
Crash Rate (Using 2019 AADT)	180.39 Accidents per 100 million vehicle miles			

Crash Severity NM 37 MP 0- 2
2017 - 2019



AADT Data

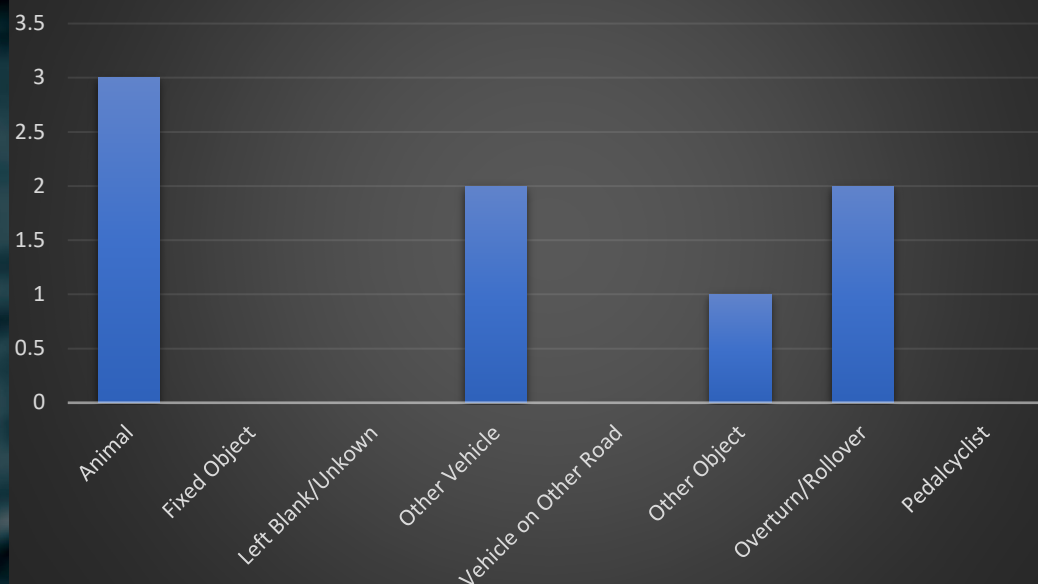
Location	AADT	Year
NM 37 @ NM 48	2025	2019

Single Vehicle vs Multiple Vehicles
NM 37 MP 0 - 2 2017 - 2019

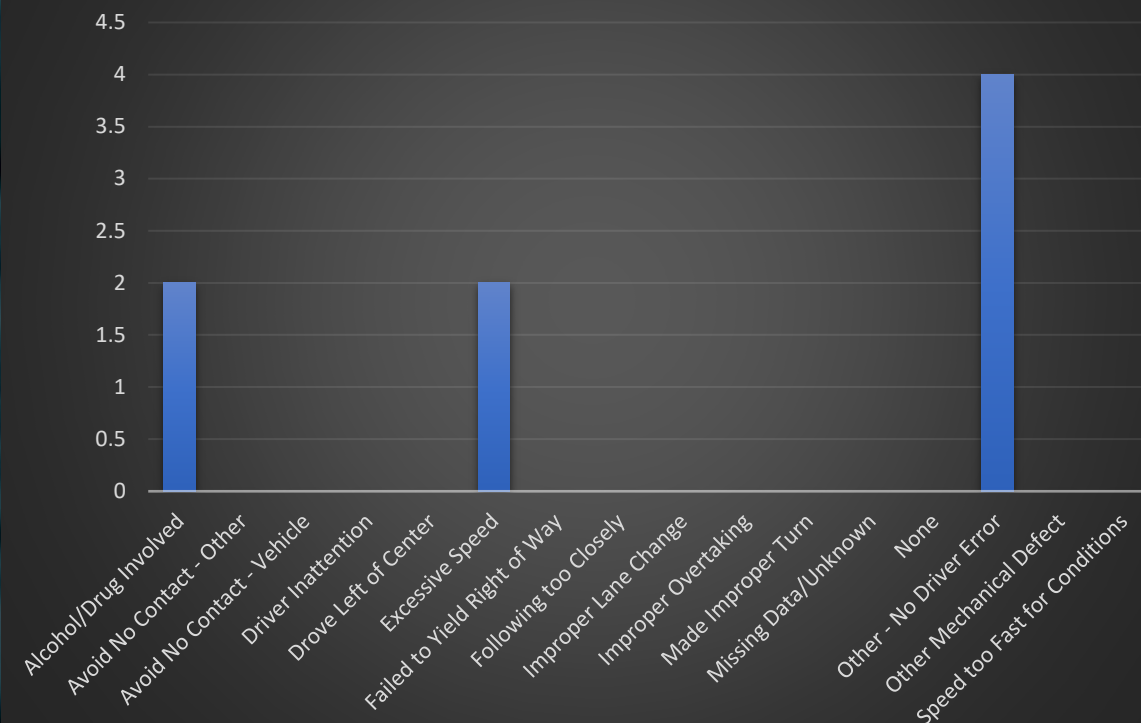


Recreational Off-Highway Vehicles on Paved State Highways

**Crash Classification NM 37 MP 0 - 2
2017 - 2019**



**Highest Contributing Factor for Crashes
NM 37 MP 0 - 2 2017-2019**



Recreational Off-Highway Vehicles on Paved State Highways

NMDOT

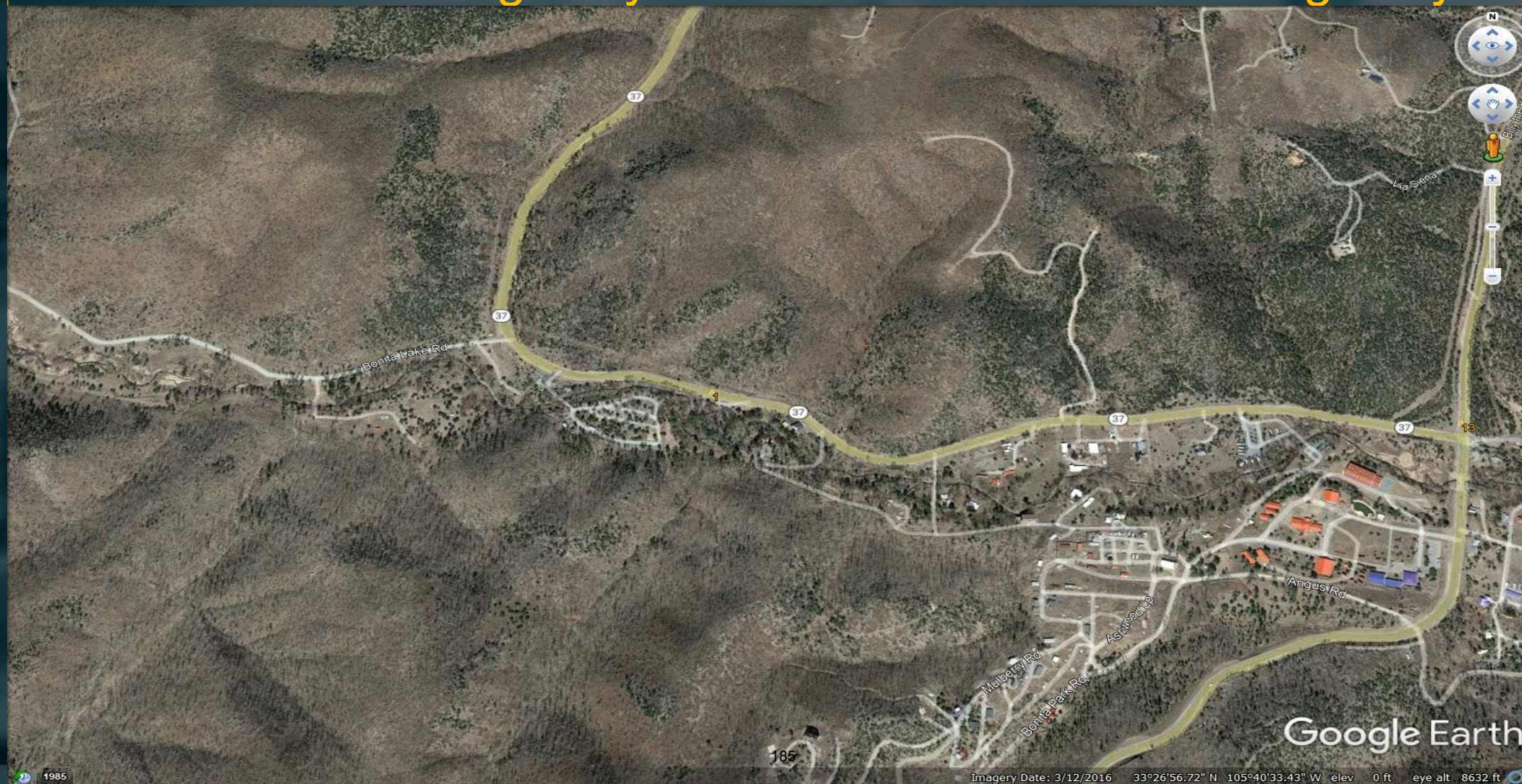
“Demonstration That the Designated Route is Clearly For Recreational Access of ROVs, in the Public Interest, and Not For the Sole Benefit of Any Private Interest, Business or Organization”



Recreational Off-Highway Vehicles on Paved State Highways



Recreational Off-Highway Vehicles on Paved State Highways



NEW MEXICO STATE TRANSPORTATION COMMISSION



CP 71
06/16/16

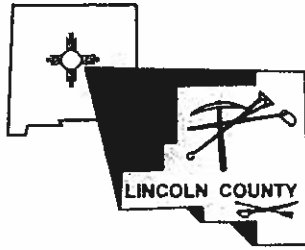
Recreational Off-Highway Vehicles on Paved State Highways

Reference: NMSA 1978, Sections 67-3-2(D), 66-3-1001.1 and 66-3-1011.

It is the policy of the New Mexico State Transportation Commission ("Commission") to promote multimodal access and connectivity within the state road system in conformity with applicable law, regulation, and industry safety standards. In accordance with NMSA 1978, Section 66-3-1011, multimodal access may include reasonable and safe use of segments of state-owned or controlled paved highways in areas with significant outdoor recreational activity by recreational off-highway vehicles ("ROVs"), as defined in accordance with NMSA 1978, Section 66-3-1001.1 and Sub-section C of 66-3-1011.

- A. Subject to the provisions below, the Commission may designate segments of the state highway system for the operation of ROVs where the use of such vehicles complements the character of the community, and reasonably safe conditions can be maintained. The Commission shall cautiously and sparingly utilize its authority to designate ROV routes.
- B. The Commission may designate as a ROV route ("designated route") any portion of the state highway system, provided that the designated route is not on or intersecting a limited access highway or freeway.
 - 1. The Commission may do so on its own initiative or after consideration of a written request made by a municipality, county or tribal government ("requesting entity") as set forth in Section C below.
 - 2. The Commission's determination shall be based on New Mexico Department of Transportation ("Department") recommendation.
 - 3. The Commission's authority includes the approval or rejection of written requests for designated routes in accordance with Section C below, and revocation of previously designated routes, provided that for the latter, the Department has determined the designated route to have a negative impact on the roadway, landscape, or inhabitants, including through, but not limited to, findings of an increase in crashes or fatalities on the designated route, and/or by way of internal or external safety studies.

- C. The Commission shall consider, and approve or deny, written requests for a designated route made by a requesting entity, in accordance with Commission policy concerning public hearings. The requesting entity shall include, as part of the request packet, documents that address the following requirements:
1. The segment of roadway is located within the boundaries of the requesting entity, not a limited access highway or freeway, and posted with a speed limit of 45 miles per hour or less, and there are no feasible alternate routes to the state highway;
 2. An ordinance or resolution that the requesting entity has passed in conformity with the Off-Highway Motor Vehicle Act, allowing for the operation of ROVs within its jurisdiction, and including as requirements, qualifiers set forth in Sub-section E(4) of 66-3-1001.1 and Sub-section C of 66-3-1011, and mandatory safety restraints for ROV operators and passengers;
 3. A resolution requesting the Commission to designate certain specific portions of the state highway system as a designated route;
 4. A detailed map showing the desired location and description of the proposed route designation, which includes the termini and adjacent recreational facilities that would tie into the designated route;
 5. The Department's written recommendation that ROVs can be operated with reasonable safety on the designated route, taking into consideration the pavement condition, geometry, road safety features, speed, crash data, ROV safety standards, and usage of the road segment, provided that the Department may also require further traffic analyses by the requesting entity;
 6. For any additional features or signage needed to make ROV use feasible ("route facilities"), an agreement between the requesting entity and the Department that defines the roles and responsibilities for the construction and maintenance of route facilities, terms and conditions for operation, and allocation of legal responsibilities pertaining to the use of ROVs on the designated route;
 7. Demonstration that the designated route is clearly for recreational access of ROVs, in the public interest, and not for the sole benefit of any private interest, business, or organization;
 8. Documented community and law enforcement support for the route designation; and
 9. The designation shall comply with all state and federal laws and regulations, and, if a U.S. highway, shall require receipt of any necessary approval from the Federal Highway Administration.
- D. The Secretary shall formulate suitable directives, procedures or rules for the implementation of this policy.



County of Lincoln

PO Box 711 * 300 Central Ave. * Carrizozo, New Mexico 88301-0711 * (575) 648-2385

www.lincolncountynm.gov

October 19, 2021

Walter Adams, Chairman
New Mexico State Transportation Commission
1120 Cerrillos Road
Santa Fe, New Mexico 87504-1149

RE: County of Lincoln's Request to Designate Certain Portions of NM 37 and NM 48 for the Operation of Recreational Off-Highway Vehicles ("Route Designation Request")

Dear Chairman Adams:

My name is Thomas F. Stewart and, I am the Chairman of Board of County Commissioners of Lincoln County, New Mexico. This correspondence represents the County of Lincoln's request that the New Mexico State Transportation Commission [hereinafter "NMSTC"] authorize recreational off-highway vehicles [hereinafter "ROV"] from a point at the Northern Village of Ruidoso city limits, mile marker 7.8 on NM 48 traveling North to the intersection of NM 37; thence West on NM 37 to the turnoff to Bonito Lake.

On September 15, 2021, Lincoln County staff and members of the public met with New Mexico Department of Transportation's District Engineer, Francisco Sanchez, to discuss what paved State highways within Lincoln County would qualify for authorization of use of ROV's. During the meeting, the parties discussed the NMSTC Regulation CP 71 issued on 06/16/16 which sets forth the criteria that the NMSTC utilizes to approve or disapprove of ROV use on any particular State highway. At the conclusion of this meeting, it was the recommendation of those attending to recommend to the Lincoln County Commission that they seek authorization for ROV use on the following paved State highways:

From a point at the Northern Village of Ruidoso city limits, mile marker 7.8 on NM 48 traveling North to the intersection of NM 37; thence West on NM 37 to the turnoff to Bonito Lake. (See Map setting forth the requested route attached hereto as Exhibit "A".)

Please consider this correspondence as Lincoln County's written request for authorization to allow for the use of ROV's on the above portions of paved State highways. The following documentation is provided in support of the County of Lincoln's request and follows the NMSTC Regulation CP 71, subsection C criteria:

- C-1. The segment of roadway requested for ROV use is located within the boundaries of the County of Lincoln, is not a limited access highway or freeway, and has a posted speed limit of 45 miles per hour or less, and there are no feasible alternate routes to the State highway. A quick review of the attached map clearly reflects that the use of those portions of NM 37, and NM 48 are the only feasible routes to access Bonito Lake and the State and Federal lands surrounding Bonito Lake. If approved, this designated route would connect the following County subdivisions to the Village of Ruidoso and the Bonito Lake area: (1) Alto Lakes Golf & Country Club, (2) Kokopelli, (3) Lincoln Hills, (4) Enchanted Forest, and (5) Copper Ridge.
- C-2. The County of Lincoln has adopted Ordinance 2018-02 titled: "An Ordinance Authorizing The Operation Of Recreational Vehicles On Paved Streets Or Highways Owned And Controlled By The County of Lincoln, New Mexico", a copy of which is attached hereto as **Exhibit "B"**. Lincoln County Ordinance 2018-02 complies with the qualifiers set forth in Sub-section E(4) or NMSA 66-3-1001.1 and Sub-section C of NMSA 66-3-1011, and includes mandatory safety restraints for ROV operators and passengers.
- C-3. Attached as **Exhibit "C"** hereto is Lincoln County Resolution No. 2021-22 of the Lincoln County Commission requesting the approval of the use of off-highway vehicles on designated portions of State NM 37 and NM 48 for recreational access.
- C-4. The map attached hereto as Exhibit "A" shows the desired location and description of the proposed route designation. If approved, the route would provide access to the following public lands:

Highway 48

- Hwy 48 and Gavilan Canyon to Eagle Creek Canyon Road with access to Forest Road 120 and Blue Lake Road (Lincoln National Forest).
- Hwy 48 and Sun Valley (turn at Chisum's Convenience Store) Mesa Heights Dr. to Laguna which ties into Monjeau Lookout Rd. (Lincoln National Forest).

Highway 37 Bonito Lake

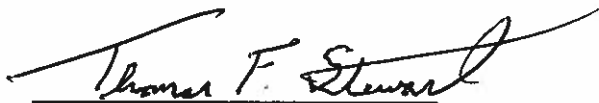
- Hwy 37 Bonito Lake exit onto Bonito Lake Road to South Fork Campground, back to Reynolds Riding Stables, over Tanbark to the back end of Nogal Canyon Road. (Lincoln National Forest)

- C-5. It is Lincoln County's understanding that the NMSTC Engineering Dept. will provide its recommendation that ROV's can be operated with reasonable safety on the designated route, taking into consideration the pavement condition, geometry, road safety features, speed, crash data, ROV safety standards, and usage of the road segment, and that the Department may also require further traffic analyses by Lincoln County.
- C-6. It is Lincoln County's understanding that the NM DOT may require the execution of an agreement defining the roles and responsibilities for construction and maintenance of the designated route facilities, including signage, the terms and conditions for ROV operation, and the allocation of legal responsibilities pertaining to use of ROV's and the designated route.
- C-7. The designated route is clearly in the public's interest. There are literally hundreds of recreation ROV's located within Lincoln County that could benefit from access over the State highways in question to access the state and federal lands in the Bonito Lake area. Tourists visiting the County of Lincoln increasingly bring their ROV's to experience the beauty of this area thereby adding to the tourism industry in Lincoln County.
- C-8. A letter of support from Michael Wood, Lincoln County Sheriff is attached hereto as Exhibit "D".

Thank you for your consideration and, should you have any questions, please do not hesitate to contact me.

Sincerely,

LINCOLN COUNTY BOARD
OF COUNTY COMMISSIONERS



Thomas F. Stewart, Chairman

c: Ira Pearson, Lincoln County Manager
Alan P. Morel, Lincoln County General Counsel
Francisco Sanchez, District 2 Engineer, NMDOT, P.O. Box 1457, Roswell, NM 88202

Attachments as noted.



ORDINANCE 2018-02

**AN ORDINANCE AUTHORIZING THE OPERATION OF
RECREATIONAL OFF-HIGHWAY VEHICLES ON PAVED STREETS
OR HIGHWAYS OWNED AND CONTROLLED BY THE COUNTY OF
LINCOLN, NEW MEXICO**

WHEREAS, the New Mexico legislature amended Section 66-3-1011 NMSA 1978, allowing a county by ordinance or resolution, to authorize the operation of off-highway motor vehicles on paved streets or highways owned and controlled by the county; and,

WHEREAS, currently no state law or county ordinance prohibits the use of off-highway motor vehicles on unpaved roads, streets, or highways owned and controlled by the county; and,

WHEREAS, the Board of County Commissioners of the County of Lincoln, New Mexico (hereinafter referred to as "Governing Body") desires to adopt an ordinance that would authorize the operation of off-highway motor vehicles, as defined herein, on paved streets or highways owned and controlled by Lincoln County; and,

WHEREAS, the Governing Body published notice of its intention to consider the present ordinance at least fourteen (14) days prior to the present meeting, in accordance with Section 4-37-7 NMSA 1978; and,

WHEREAS, the Governing Body held an open public hearing on the consideration of the present ordinance at which time there was an opportunity for public comment.

**NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE
COUNTY OF LINCOLN, NEW MEXICO**

SECTION 1. PURPOSE-AUTHORIZATION

The purpose of this Ordinance is to allow the operation of recreational off-highway vehicles (hereinafter referred to as "OHV") on a paved street or highway owned and controlled by the County of Lincoln, New Mexico.

The Governing Body hereby authorizes such use as defined herein under the conditions set forth in the Off-Highway Motor Vehicle Act, Sections 66-3-1011 through 66-3-1016 NMSA 1978 (and any amendments thereto). The operation of recreational off-highway motor vehicles is prohibited at all times on limited access highways and freeways, pursuant to Section 66-3-1011(A)(1).

The authorization granted by this Ordinance for the operation of OHVs is limited to OHVs as defined in this Ordinance. No other vehicle defined as an OHV under 66-1001-1(E) is



authorized for operation on any paved street or highway owned and controlled by the County of Lincoln.

SECTION 2. DEFINITIONS

As used in this Ordinance:

A. An Off-Highway Motor Vehicle (OHV) is defined as a motor vehicle designed by the manufacturer for operation exclusively off the highway or road and includes:

1. Recreational Off-Highway Vehicle: a type of off-highway motor vehicle designed for travel on four (4) or more non-highway tires, for recreational use by one or more persons, and having:

- a. a steering wheel for steering control;
- b. non-straddle seating;
- c. maximum speed capability greater than thirty-five (35) miles per hour;
- d. gross vehicle weight rating no greater than one thousand seven hundred fifty (1,750) pounds;
- e. less than eighty (80) inches in overall width, exclusive of accessories;
- f. engine displacement of less than one thousand (1,000) cubic centimeters;
- g. identification by means of a seventeen (17) character vehicle identification number or;

2. By rule of the Department of Game and Fish, any other vehicles that may enter the market that fit the general profile of vehicles operated off the highway for recreational purposes.

All-Terrain Vehicles are not permitted on paved streets or Highways owned and controlled by the County of Lincoln. An All-Terrain Vehicle is a type of off-highway motor vehicle measuring fifty (50) inches or less in width, having unladed dry weight of one thousand (1,000) pounds or less, traveling on three (3) or more low pressure tires and having a seat designed to be straddled by the operator and handle-bar type steering control.

SECTION 3. EQUIPMENT

A. OHVs may not be operated on any paved street or highway owned and controlled by the County of Lincoln unless:

1. the vehicle has one or more headlights and one or more tail lights that comply with the Off-Highway Motor Vehicle Act;
2. the vehicle has brakes, mirrors, (including driver's side rear view), mufflers and a signal horn;
3. the operator of the vehicle is using eye protection that complies with the Off-Highway Motor Vehicle Act;

4. all passengers and operators under the age of eighteen (18) are wearing eye protection and securely fastened safety helmets in compliance with Section 66-3-1010.3 (B) (1); and,
5. the vehicle is equipped with a spark arrester approved by the United States Forest Service.
6. wearing a properly adjusted and fastened seatbelt if the OHV is so equipped.

SECTION 4. LICENSE, PERMITS, INSURANCE, REGISTRATION

- A. A person must have obtained the following in order to operate an OHV:
 1. A valid Driver's License. Neither a learner's permit nor a motorcycle license shall satisfy this requirement;
 2. An OHV Education Card issued by the New Mexico Department of Game and Fish if eighteen (18) years of age or younger;
 3. Insurance or evidence of financial responsibility for OHVs being operated in compliance with the provisions of the Mandatory Financial Responsibility Act Section 66-5-205 NMSA 1978. A home owners' policy will not satisfy this requirement;
 4. unless excepted under 66-3-1 NMSA 1978, registration of OHV being operated For New Mexico residents, OHVs must be registered at the New Mexico Motor Vehicle Division. For nonresidents, OHVs must be registered in the owner's state of residence. For nonresidents whose state of residence does not provide for registration of HOVs, nonresidents must obtain a nonresident permit through the New Mexico Department of Game and Fish.
- B. If applicable, proof of items (1) through (4) must be in a person's possession while operating an OHV.

SECTION 5. OPERATION OF RECREATIONAL OFF-HIGHWAY VEHICLES ON PAVED STREETS OWNED AND CONTROLLED BY THE COUNTY OF LINCOLN

- A. A person shall not operate an OHV on any paved street or highway owned and controlled by the County of Lincoln:
 1. in a careless, reckless or negligent manner so as to endanger the person or property of another, or in excess of posted speed limits or as otherwise prohibited by state law;
 2. while under the influence of intoxicating liquor or drugs as provided by Section 66-8-102 NMSA 1978;
 3. while in pursuit of and with intent to hunt or take a species of animal or bird protected by law unless otherwise authorized by the State Game Commission;

4. in pursuit of or harassment of livestock in any manner that negatively affects the livestock's condition;
 5. to intentionally approach wildlife;
 6. in a manner that has a direct negative effect on or interferes with persons engaged in agricultural practices;
 7. in excess of ten (10) miles per hour within two hundred (200) feet of a business, animal shelter, horseback rider, bicyclist, pedestrian, livestock or occupied dwelling, unless the person operates the OHV on a closed course or track or a public roadway;
 8. when conditions such as darkness limit visibility to five hundred (500) feet or less, unless the vehicle is equipped with:
 - a. one or more headlights of sufficient candlepower to light objects at a distance of one hundred fifty (150) feet; and,
 - b. at least one taillight of sufficient intensity to exhibit a red or amber light at a distance of two hundred (200) feet under normal atmospheric conditions;
 9. that produces noise that exceeds ninety-six (96) decibels when measured using test procedures established by the Society of Automotive Engineers pursuant to Standard J-1287;
 10. unless the OHV is equipped with a spark arrestor approved by United States Forest Service;
 11. in the left lane of traffic or in a side-by-side manner. OHVs must be operated single file and as far to the right of the right lane as safely possible;
 12. all occupants are sitting in a designated seat in the OHV;
 13. where off-highway motor vehicle traffic is prohibited under local, state or federal rules or regulations; or,
- B. Operators must follow this Ordinance and all state laws pertaining to the operation of motor vehicles as set forth in the Motor Vehicle Code, Chapter 66, NMSA 1978.
- C. OHVs may cross streets or highways, except limited access highways or freeways, if the crossing is made after coming to a complete stop prior to entering the street. OHVs shall yield the right of way to oncoming traffic and shall begin a crossing only when it can be executed safely and then crossing in the most direct manner, as close to a perpendicular angle as possible.
- D. A person shall not operate an OHV on State Game Commission owned, State Game Commission controlled or State Game Commission administered land, except as specifically allowed pursuant to the Habitat Protection Act, Chapter 17, Article 1 NMSA 1978.

- E. A person shall not operate an OHV on land owned, controlled or administered by the State parks Division of the Energy, Minerals and Natural Resources Department, pursuant to the State parks Division Statute, Chapter 16, Article 2 NMSA 1978 except in areas designated by and permitted by rules adopted by the Secretary of Energy, Minerals and Natural Resources.
- F. Unless authorized, a person shall not;
 - 1. remove, deface or destroy any official sign installed by a state, federal, local or private land management agency; or,
 - 2. install any OHV related sign.

SECTION 6. AGE RESTRICTIONS

- A. A person must be at least sixteen (16) years of age to operate an OHV.
- B. A person under the age of eighteen (18) shall not operate an OHV unless the person is supervised at all times by a parent, lawful guardian or a person over the age of twenty one (21) who has a valid driver's license.
- C. A person under the age of eighteen (18) shall be required to successfully complete an off-highway motor vehicle safety training course for which the person shall have parental permission. The course shall be conducted by an off-highway motor vehicle safety training organization that is approved and certified by the Department of Game and Fish. Upon successful completion of the course, the person shall receive an OHV safety permit issued by the organization, pursuant to 66-3-1010.2 NMSA 1978.

SECTION 7. SPEED LIMITS

By Ordinance or Resolution, a local authority or State Transportation Commission may establish separate speed limits and operating restrictions for OHVs where they are authorized to operate on paved streets or highways pursuant to Section 66-3-1011 (C) NMSA 1978. OHVs operating on streets or highways owned and controlled by the County of Lincoln shall operate at either the posted speed limit or at a speed limit that may be established by the New Mexico State Transportation Commission for such vehicles, whichever is slower.

SECTION 8. EXEMPTIONS

OHVs being used for agricultural operation are exempt from this Ordinance.

SECTION 9. ENFORCEMENT

Prosecutions of violations under this Ordinance may be commenced by the issuance of a citation charging the violation. Upon displaying the officer's badge of office, citations may be issued by a deputy from the Lincoln County Sheriff's Department, a wildland conservation officer, a New Mexico State Police officer or another Peace Officer with jurisdiction in the County of Lincoln and may:

- A. require an off-highway motor vehicle operator to produce:

1. the registration certificate or nonresident permit;
 2. proof of successful completion of an off-highway motor vehicle training course conducted by an off-highway safety training organization approved and certified by the New Mexico Department of Game and Fish when required by Section 66-3-1010(2) NMSA 1978;
 3. the personal identification of the operator; and,
- B. issue citations for violations of the provisions of the Off Highway Motor Vehicle Act.

SECTION 10. PENALTIES

Any individual, firm, partnership, corporation or other entity who violates this Ordinance shall be guilty of a penalty assessment misdemeanor and subject to penalties as listed at Section 66-3-1020 NMSA 1978.

SECTION 11. SEVERABILITY

In the event that any clause, sentence, paragraph, section, or other portion of this Ordinance is found by any Court of competent jurisdiction to be invalid, it is the intent of the Governing Body that the remaining portions of this Ordinance be given full force and effect. It is the expressed intent of the Governing Body to adopt each section, phrase, paragraph, and word of this Ordinance separately.

SECTION 12. EFFECTIVE DATE

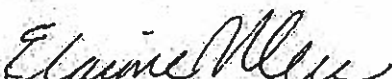
This Ordinance shall be recorded and authenticated by the County Clerk following adoption by the Governing Body. The effective date of this Ordinance shall be thirty (30) days after the Ordinance has been recorded.

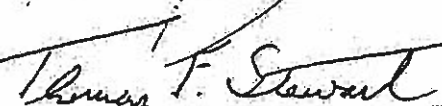
PASSED, APPROVED AND ADOPTED this 16th day of October, 2018.

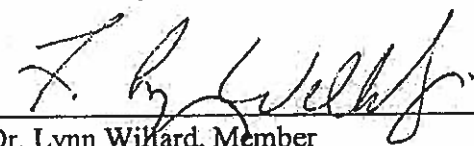
BOARD OF COUNTY COMMISSIONERS OF LINCOLN COUNTY, NEW MEXICO


Preston Stone, Chair


Dallas Draper, Vice-Chair

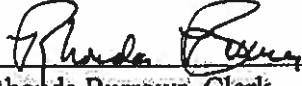

Elaine Allen, Member


Thomas F. Stewart, Member


Dr. Lynn Wilford, Member



ATTEST:



Rhonda Burrows, Clerk
County of Lincoln, New Mexico



**COUNTY OF LINCOLN
RESOLUTION NO. 2021-22**

**A RESOLUTION REQUESTING THE NEW MEXICO STATE
TRANSPORTATION COMMISSION TO APPROVE THE USE OF OFF-
HIGHWAY MOTOR VEHICLES ON PAVED SECTIONS OF NEW
MEXICO HIGHWAYS 37 & 48 WITHIN THE JURISDICTIONAL
BOUNDARIES AND CONTROL OF THE COUNTY OF LINCOLN**

WHEREAS, the County of Lincoln has created Ordinance No. 2018-02 allowing for the operation of recreational off-highway motor vehicles on streets owned and controlled by the County of Lincoln, subject to certain conditions; and

WHEREAS, the County of Lincoln's jurisdiction includes portions of NM 37 and NM 48 and, it would be advantageous for the County as well as recreational off-highway motor vehicle operators to be authorized by the New Mexico State Transportation Commission to operate their vehicles on portions of NM37 and NM48 within the jurisdictional boundaries and control of the County of Lincoln; and

WHEREAS, the County of Lincoln desires to request approval by the New Mexico State Transportation Commission for the use of recreational off-highway motor vehicles on paved sections of NM37 and NM48.

NOW THEREFORE BE IT RESOLVED that the Lincoln County Board of Commissioners hereby requests that the New Mexico State Transportation Commission designate the following paved portions of NM 37 and NM 48 as an approved route for the use of recreational off-highway vehicles:

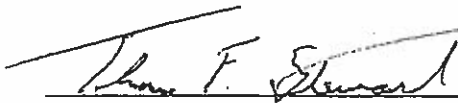
From a point at the Northern Village of Ruidoso city limits, mile marker 7.8 on NM 48 traveling North to the intersection of NM 37; thence West on NM 37 to the turnoff to Bonito Lake.

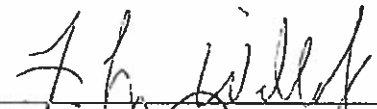
This approval is requested pursuant to NMSA 1978, Sections 67-3-2(D), 66-3-1001.1, 66-3-1011 and New Mexico State Transportation Commission Policy 71. The portions of NM 37 and NM 48 described above meet the State guidelines. The Off-Highway Motor Vehicle Act use is for the public benefit and not for the benefit of any individual private interest. The portions of NM 37 and NM 48 for which this request is made are needed for recreational access and will greatly benefit or enhance the recreational economy of the County of Lincoln.

PASSED, APPROVED AND ADOPTED this 19th day of October, 2021.



BOARD OF COUNTY COMMISSIONERS
LINCOLN COUNTY, NEW MEXICO


Thomas F. Stewart, Chair

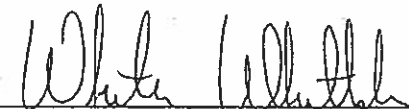

Dr. Lynn Willard, Vice-Chair

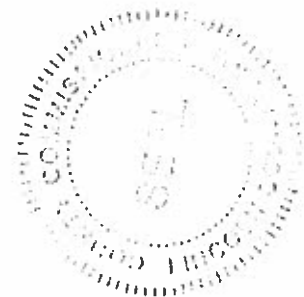

Elaine Allen, Member


Jon Crunk, Member


Todd Proctor, Member

ATTEST:


Whitney Whittaker, Clerk



Lincoln County Sheriff's Office

MICHAEL T. WOOD
SHERIFF



GERALDINE Y. MARTINEZ
Undersheriff

October 4, 2021

Walter Adams, Chairman
New Mexico State Transportation Commission
1120 Cerrillos Road
Santa Fe, New Mexico 87504-1149

RE: Letter of Support of Recreational Off-Highway Vehicles on Paved Portions of NM 37 and NM 48

Dear Chairman Adams,

On behalf of the County of Lincoln, I wish to express my support for the approval of recreational off-high vehicle (ROV) use on designated paved portions of NM 37 and NM 48 within the jurisdictional boundaries of the County of Lincoln. On October 16, 2018, the County of Lincoln adopted Ordinance 2018-02 authorizing the operation of ROV's on paved streets or highways owned and controlled by the County of Lincoln.

Since the adoption of Ordinance 2018-02, there have been no known or reported incidents as it pertains to the operation of ROV's on streets or highways owned and controlled by the County of Lincoln.

Our county relies on and supports the tourism industry and with the approval of ROV use on designated paved portions of NM 37 and NM 48, it will benefit and enhance the recreational economy of the County of Lincoln.

I would like to thank you in advance for your consideration and, should you have any questions regarding this matter, please feel free to contact me.


MICHAEL WOOD
SHERIFF

300 Central Avenue, PO Box 278, Carrizozo, NM 88301
Office 575.648.2341 or 1.800.687.2419
Fax: 575.648.2862 or 575.648.4249



Agenda Item 13f

Briefing Regarding
Proposed Eddy County
Request to Designate a
Certain Segment of NM
137 for the Operation of
Recreational Off-Highway
Vehicles

Commission Brief

SUBJECT: Proposed County of Eddy (“County”) request to designate a certain segment of NM 137 for the operation of Recreational Off-Highway Vehicles (“Route Designation Request”).

PRESENTER: Francisco Sanchez, P.E., District 2 Engineer, NMDOT

REFERENCE MATERIAL: County submission package supporting Route Designation Request.

BACKGROUND: In accordance with the Off-Highway Motor Vehicle Act and NMSA 1978, Sections 67-3-2(D), 66-3-1001.1 and 66-3-1011, and pursuant to the provisions of Commission Policy 71, *Recreational Off-Highway Vehicles on Paved State Highways* (“CP 71”), the County has submitted a Route Designation Request to the Commission. The specific state highway segment that the County has requested to be designated as a recreational off-highway vehicle route (“Designated Route”) is more particularly described as NM 137 from approximately mile marker 14.7 to approximately mile marker 21.5, and is depicted on the maps included in the attached County submission package.

ACTION: No action is required at this time. This item is for briefing only.

March 24, 2022

Commission Policy 71 Recreational Off-Highway Vehicles (ROVs) On Paved State Highways

County of Eddy Request to Designate Certain Portions
of NM 137 for the Operation of Recreational Off-
Highway Vehicles (“Route Designation Request”)

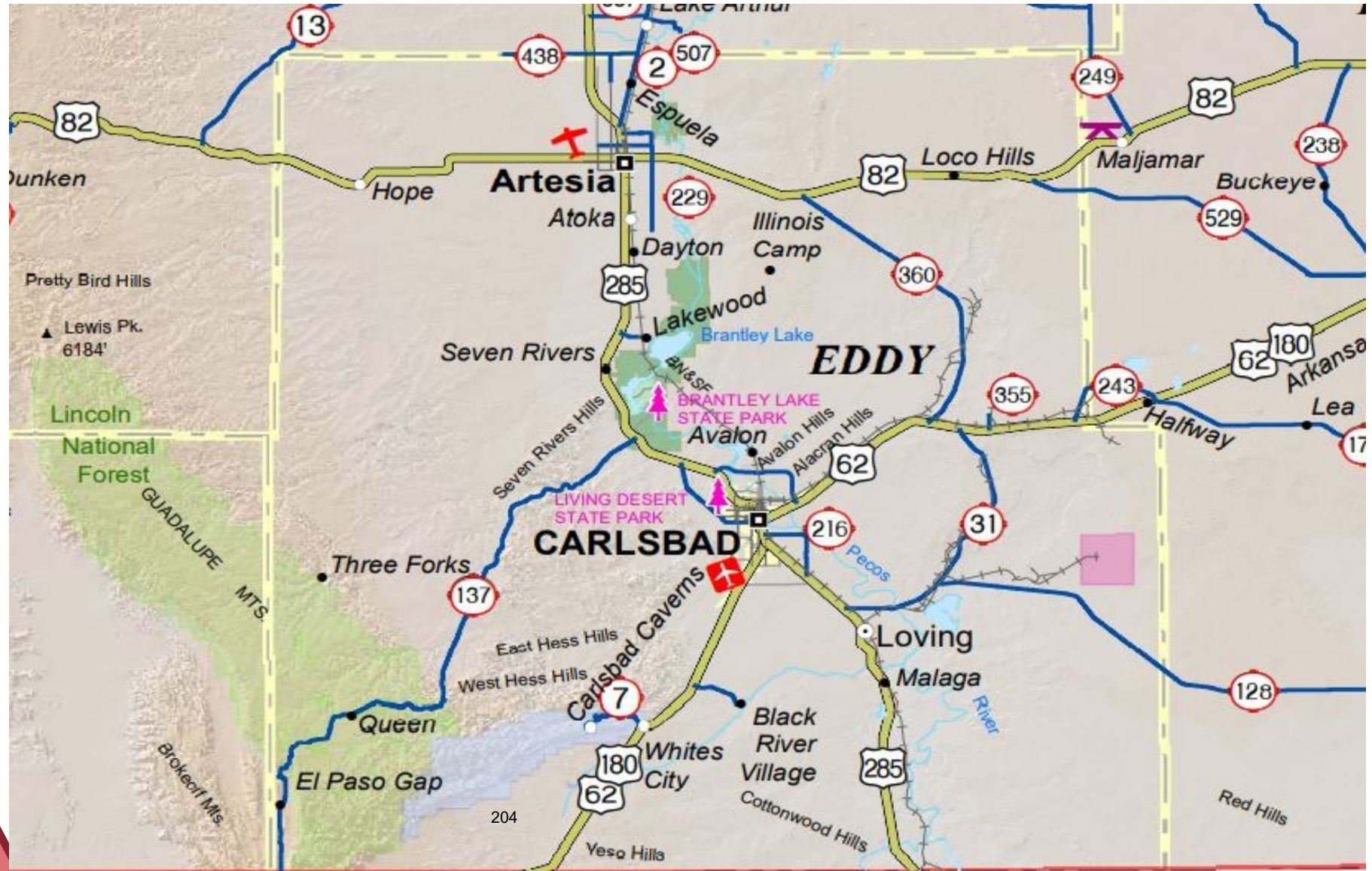
Francisco Sanchez, PE – District 2 Engineer





New Mexico DEPARTMENT OF
TRANSPORTATION
MOBILITY FOR EVERYONE

Recreational Off-Highway Vehicles On Paved State Highways CP 71



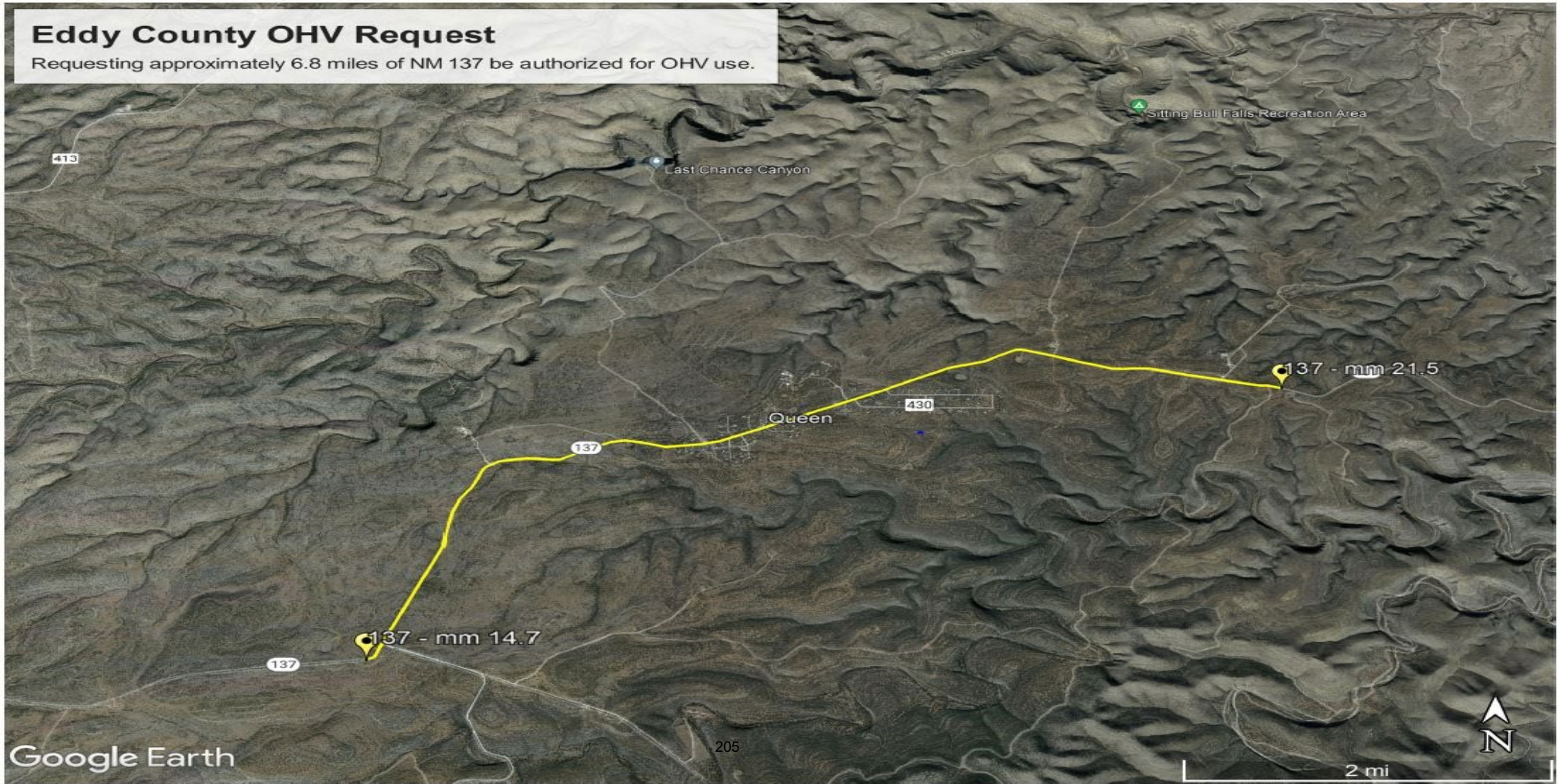


New Mexico DEPARTMENT OF
TRANSPORTATION
MOBILITY FOR EVERYONE

Recreational Off-Highway Vehicles On Paved State Highways CP 71

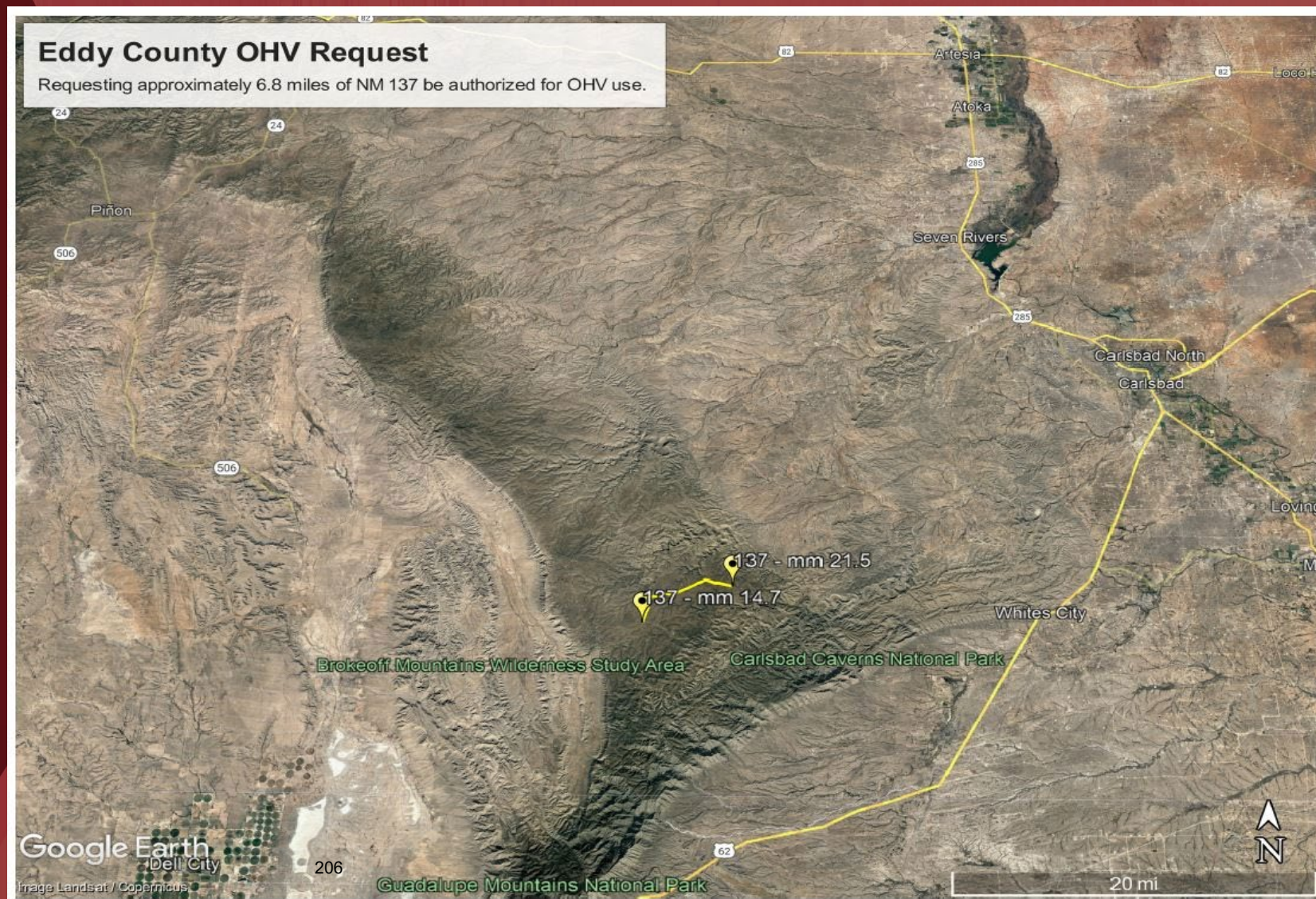
Eddy County OHV Request

Requesting approximately 6.8 miles of NM 137 be authorized for OHV use.



ROVs on Paved State Highways

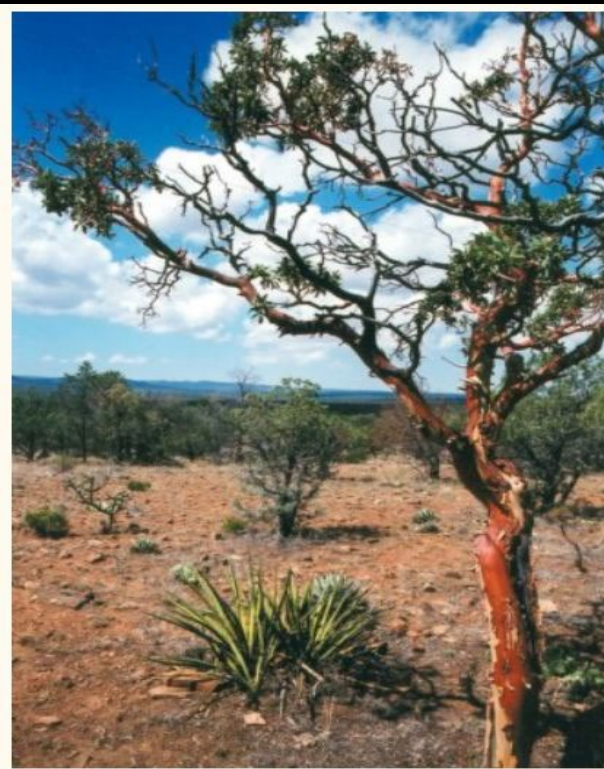
County of Eddy ROV Route Request –
NM 137 From Approximately Mile Marker
14.7 to Approximately Mile Marker 21.5



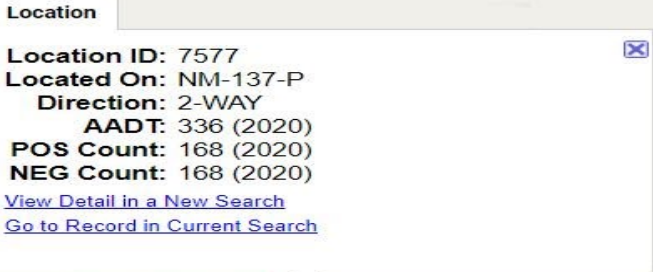
ROVs on Paved State Highways CP 71

The Commission May Designate
Segments of the State Highway System
For the Operation of ROVs Where the
Use of Such Vehicles Complements the
Character of the Community, and
Reasonably Safe Conditions Can be
Maintained



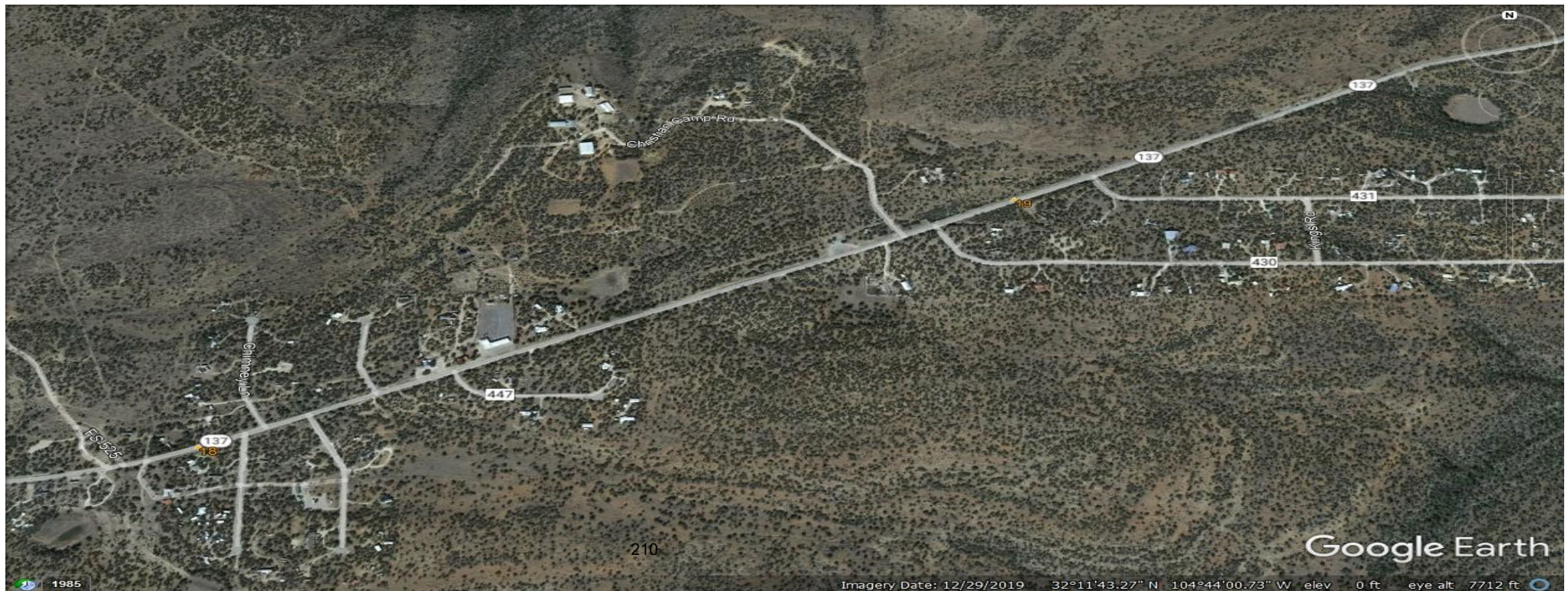


Recreational Off-Highway Vehicles On
Paved State Highways CP 71



Recreational Off-Highway Vehicles On Paved State Highways CP 71

Demonstration That the Route is Clearly for Recreational Access of ROVs, in the Public Interest, and Not For the Sole Benefit of Any Private Interest, Business or Organization



Recreational Off-Highway Vehicles On Paved State Highways CP 71





COMMISSIONERS

Steven McCutcheon, Chair
District 4

Fred Beard, Vice Chair
District 3

Sarah Cordova, Member
District 5

Ernie Carlson, Member
District 1

Jonathan A. Henry, Member
District 2

COUNTY MANAGER

Allen R. Davis

ELECTED OFFICIALS

Gemma Ferguson
Assessor

Robin Van Natta
Clerk

Jay L. Francis
Probate Judge

Mark Cage
Sheriff

Laurie Pruitt
Treasurer

Eddy County
Administration Complex
101 W. Greene Street
Carlsbad, NM 88220
575-887-9511(p)
575-236-1061(f)

County of Eddy

State of New Mexico

March 4th, 2022

Francisco Sanchez, PE
District II Engineer
New Mexico Department of Transportation
P. O. Box 1457
Roswell, NM 88202

RE: NM 137 - Off-Highway Vehicle (OHV) Area Designation Request

Mr. Sanchez,

Eddy County would like to request that approximately 6.8 miles of NM 137 be authorized and designated as an Off-Highway Vehicle (OHV) Zone. The termini for this requested designation would be on NM 137 from approximately MM 14.7 to approximately MM 21.5 (see attached map). This section of NM 137 meets all the current NMDOT criteria to be designated an OHV Zone.

On January 18th, 2022, the Eddy County Commission approved resolution R-22-01, supporting the creation and of an OHV Zone in this area. On January 1st, 2022 I received a letter from the Eddy County Sheriff's Office, acknowledging and supporting the request for authorization of OHV use in the designated area of 137, see attached letter. On August 7th, 2018, the Eddy County Commission approved Ordinance O-18-04, that adopted all safety and standards required by the State of New Mexico for OHV use, and also authorized OHV usage on all designated County roads.

Eddy County feels this is a reasonable and beneficial request for the Queen area and the citizens that residents or utilize the area for recreation, and would recommend approval of the request.

Eddy County values District II's continued support and partnership. If there are any questions or concerns regarding any of this request, please do not hesitate to contact my office.

Respectfully,

A blue ink signature of Jason C. Burns, written in a cursive style.

Jason C. Burns
Public Works Director
Eddy County, NM

Attached:

- Resolution R-22-10
- Letter from Eddy County Sheriff dated January 1st, 2022
- Ordinance O-18-95
- NM 137 OHV Zone Google Map



STATE OF NEW MEXICO
COUNTY OF EDDY

RESOLUTION R-22-10

A RESOLUTION REQUESTING THE NEW MEXICO STATE
TRANSPORTATION COMMISSION TO APPROVE THE USE OF OFF-
HIGHWAY MOTOR VEHICLES ON PAVED SECTIONS OF NEW MEXICO
HIGHWAYS 137 WITHIN THE JURISDICTIONAL BOUNDARIES AND
CONTROL OF THE COUNTY OF EDDY

WHEREAS, the County of Eddy has approved Ordinance No. 0-18-95 authorizing the operation of recreational off-highway motor vehicles on streets owned and controlled by the County of Eddy, subject to certain conditions; and,

WHEREAS, the County of Eddy's jurisdiction includes portions of NM 137 and, it would be advantageous for the County as well as recreational off-highway motor vehicle operators to be authorized by the New Mexico State Transportation Commission to operate their vehicles on portions of NM 137 within the jurisdictional boundaries and control of the County of Eddy; and,

WHEREAS, the County of Eddy desires to request approval by the New Mexico State Transportation Commission for the use of recreational off-highway motor vehicles on paved sections of NM 137.

NOW THEREFORE, BE IT RESOLVED, that the Eddy County Board of Commissioners hereby requests that the New Mexico State Transportation Commission designate the following paved portions of NM 137 as an approved route for the use of recreational off-highway vehicles:

From a point on NM 137, at the intersection of CR 409 and NM 137 at approximately mile marker 23, and proceeding South approximately 32 miles to the termination of NM 137;

This approval is requested pursuant to NMSA 1978, Sections 67-3-2(0), 66-3-1001.1, 66-3-1011 and New Mexico State Transportation Commission Policy 71. The portions of NM 137 described above meet the State guidelines. The Off-Highway Motor Vehicle Act use is for the public benefit and not for the benefit of any individual private interest. The portions of NM 137 for which this request is made are needed for recreational access and will greatly benefit or enhance the recreational economy of the County of Eddy.



STATE OF NEW MEXICO
COUNTY OF EDDY

RESOLUTION R-22-10

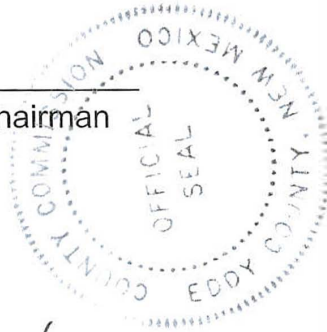
A RESOLUTION REQUESTING THE NEW MEXICO STATE
TRANSPORTATION COMMISSION TO APPROVE THE USE OF OFF-
HIGHWAY MOTOR VEHICLES ON PAVED SECTIONS OF NEW MEXICO
HIGHWAYS 137 WITHIN THE JURISDICTIONAL BOUNDARIES AND
CONTROL OF THE COUNTY OF EDDY

PASSED AND ADOPTED this 18th day of **January, 2022**, by the Eddy County Board of Commissioners in an open meeting in Carlsbad, Eddy County, New Mexico.

**EDDY COUNTY BOARD OF COMMISSIONERS
EDDY COUNTY, NEW MEXICO**



Steven McCutcheon, Commission Chairman



ATTEST:



Darlene Rosprim, County Clerk



Main Office
1502 Corrales Drive
Carlsbad, New Mexico 88220
Phone (575) 887-7551
Fax (575) 885-4040

Eddy County Sheriff's Office

Sheriff Mark Cage
Undersheriff Alan Griffith



North Sub-Station
3300 West Main Street, Suite C
Artesia, New Mexico 88210
(575) 746-9888 Phone
(575) 746-6189 Fax

January 1, 2022

To whom it may concern,

NM 137, also known as the Queen Highway has been the subject of some controversy for quite a while. Many folks drive up to the mountains to camp, hunt and sightsee as well as the existence of a small community of residents that reside there full time. UTVs are the most convenient (and enjoyable) method of transportation in Queen and the surrounding area. Another large attraction are the trails that are open for UTV riding.

The Eddy Board of County Commissioners passed an ordinance consistent with NM state law allowing for the use of UTVs on county roads. But as I'm sure you are aware, state law prohibits the use of ATVs on state highways such as NM 137. This has caused quite a bit of confusion with the public and various law enforcement entities relating to where the UTVs can legally be operated.

In the past 10 years there has been only one severe crash involving a UTV in the Queen area. I do not receive any complaints or calls for service in that area relating to the operation of UTVs. With all this in mind, it is my recommendation that the area of NM 137 identified in the county's request be granted the designation as a UTV access road.

Thank you for your consideration.

Best Regards,

A handwritten signature in blue ink, appearing to read "Mark Cage".

Mark Cage
Sheriff, Eddy County

**EDDY COUNTY, NEW MEXICO
ORDINANCE NO. O-18-95**

**AN ORDINANCE AUTHORIZING THE OPERATION OF OFF-HIGHWAY
VEHICLES ON PAVED STREETS OR HIGHWAYS OWNED AND
CONTROLLED BY EDDY COUNTY**

WHEREAS, the New Mexico Legislature amended Section 66-3-1011 NMSA 1978, allowing a county, by ordinance or resolution, to authorize the operation of off-highway motor vehicles on paved streets or highways owned and controlled by the county; and

WHEREAS, currently no state law or county ordinance prohibits the use of off-highway motor vehicles on unpaved roads, streets, or highways owned and controlled by the county; and

WHEREAS, the Board of Eddy County Commissioners desires to adopt an ordinance that would authorize the operation of off-highway motor vehicles, as defined herein, on paved streets or highways owned and controlled by Eddy County; and

WHEREAS, the Board duly published notice of its intention to consider the present ordinance at least fourteen (14) days prior to the present meeting, in accordance with NMSA (1978) § 4-37-7; and

WHEREAS, the Board held an open public hearing on the consideration of the present ordinance at which there was an opportunity for public comment.

NOW THEREFORE BE IT ORDAINED THAT THE BOARD OF COUNTY COMMISSIONERS OF EDDY COUNTY DOES HEREBY ADOPT AN ORDINANCE AUTHORIZING THE OPERATION OF OFF-HIGHWAY MOTOR VEHICLES ON STREETS OR HIGHWAYS OWNED AND CONTROLLED BY EDDY COUNTY, AS FOLLOWS:

I. AUTHORIZATION.

- A. The Board of Commissioners of Eddy County, New Mexico hereby authorize the operation of recreational off-highway vehicles, as defined herein, on any paved street or highway owned and controlled by Eddy County under the conditions set forth in the Off-Highway Motor Vehicle Act, Sections 66-3-1011 through 66-3-1016 NMSA 1978 (and any amendments thereto) and this Ordinance; and



STATE OF NEW MEXICO COUNTY OF EDDY
RECORDED ON AUGUST 7, 2018 AT 4:20 P.M.
IN BOOK 2 PAGE 830 OF THE
ORDINANCE RECORDS
ROBIN VAN NATTA, COUNTY CLERK

- B. The operation of recreational off-highway motor vehicles is prohibited at all times on limited access highways and freeways, pursuant to NMSA (1978) Section 66-3-1011A(1).

II. DEFINITION.

- A. An Off-Highway Motor Vehicle (OHV) is defined as a motor vehicle designed by the manufacturer for operation exclusively off the highway or road and includes:
1. All-terrain Vehicle, which means a motor vehicle 50 inches or less in width, having unladed dry weight of one thousand pounds or less, traveling on 3 or more low pressure tires and having a seat designed to be straddled by the operator and a handle-bar type steering control;
 2. Recreational Off-highway Vehicle ("ROV"), which means a motor vehicle designed for travel on four or more non-highway tires, for recreational use by one or more persons, and having:
 - (a) a steering wheel for steering control;
 - (b) non-straddle seating;
 - (c) maximum speed capability greater than thirty-five miles per hour;
 - (d) gross vehicle weight rating no greater than one thousand seven hundred fifty pounds;
 - (e) less than eighty inches in overall width, exclusive of accessories;
 - (f) engine displacement of one thousand cubic centimeters or less as equipped form the manufacturer; and
 - (g) identification by means of a seventeen-character vehicle identification number.
- B. The authorization granted by this Ordinance for the operation of off-highway motor vehicles is limited to OHVs as defined in this Ordinance. No other vehicle defined as an off-highway motor vehicle under NMSA 66-3-1001.1E is authorized for operation on any paved street or highway owned and controlled by Eddy County.

III. EQUIPMENT.

- A. OHVs may not be operated on any paved street or highway owned and controlled by Eddy County **unless**:
1. the vehicle has one or more headlights and one or more taillights that comply with the Off-Highway Motor Vehicle Act;
 2. the vehicle has brakes, mirrors (including driver's side rear view), mufflers and a signal horn;

3. the operator and all passengers are properly secured by safety belts (ROVs only);
4. the operator of the vehicle is wearing eye protection in compliance with the Off-Highway Motor Vehicle Act;
5. all passengers and operators under the age of eighteen are wearing eye protection and securely fastened safety helmets in compliance with NMSA Section 66-3-1010.3B(1); and
6. the vehicle is equipped with a spark arrester approved by the United States Forest Service.

IV. LICENSE, PERMITS, INSURANCE, REGISTRATION.

- A. A person must have obtained the following in order to operate an OHV:
 1. A valid Driver's License. Neither a learner's permit nor a motorcycle license shall satisfy this requirement;
 2. An OHV Education Card issued by the New Mexico Department of Game and Fish if eighteen years of age or younger;
 3. Insurance or evidence of financial responsibility for OHVs being operated in compliance with the provisions of the Mandatory Financial Responsibility Act, NMSA Section 66-5-205. A home owner's policy will not satisfy this requirement; and
 4. Unless accepted under NMSA Section 66-3-1, registration of OHV being operated. For New Mexico residents, OHVs must be registered at the New Mexico Motor Vehicle Division. For nonresidents, OHVs must be registered in the owner's state of residence. For nonresidents whose state of residence does not provide for registration of OHVs, nonresidents must obtain a nonresident permit through the New Mexico Department of Game and Fish.
- B. If applicable, proof of items (1) through (4) must be in a person's possession while operating an OHV.

V. OPERATION.

- A. A person shall not operate an OHV on any paved street or highway owned and controlled by Eddy County:
 1. in excess of the posted speed limit or as otherwise prohibited by state law;
 2. in a careless, reckless or negligent manner so as to endanger the person or property of another;
 3. while under the influence of intoxicating liquor or drugs as provided by Section 66-8-102 NMSA 1978;

4. while in pursuit of and with intent to hunt or take a species of animal or bird protected by law unless otherwise authorized by the state game commission;
5. in pursuit of or harassment of livestock in any manner that negatively affects the livestock's condition;
6. to intentionally approach wildlife;
7. in a manner that has a direct negative effect on or interferes with persons engaged in agricultural practices;
8. in excess of ten miles per hour within two hundred feet of a business, animal shelter, horseback rider, bicyclist, pedestrian, livestock or occupied dwelling, unless the person operates the vehicle on a closed course or track or a public roadway;
9. when conditions such as darkness limit visibility to five hundred feet or less, unless the vehicle is equipped with:
 - (a) one or more headlights of sufficient candlepower to light objects at a distance of one hundred fifty feet; and
 - (b) at least one taillight of sufficient intensity to exhibit a red or amber light at a distance of two hundred feet under normal atmospheric conditions;
10. that produces noise that exceeds ninety-six decibels when measured using test procedures established by the society of automotive engineers pursuant to standard J-1287;
11. unless the OHV is equipped with a spark arrestor approved by the United States Forest Service
12. in the left lane of traffic or in a side-by-side manner. OHVs must be operated single file and as far to the right of the right lane as safely possible;
13. all occupants are sitting in a designated seat in the OHV;
14. where off-highway motor vehicle traffic is prohibited under local, state or federal rules or regulations; or
15. within two-hundred yards of a residence (other than the residence of the owner of the OHV being operated) between the hours of 8:00 p.m. and 8:00 a.m., except for the storage and removal of the OHV.

- B. Operators must follow this Ordinance and all state laws pertaining to the operation of motor vehicles as set forth in the Motor Vehicle Code, Chapter 66, NMSA 1978

VI. AGE RESTRICTIONS.

- A. A person must be at least sixteen years of age to operate an OHV.
- B. A person under the age of eighteen shall not operate an off-highway motor vehicle unless the person is visually supervised at all times by a parent,

legal guardian or a person over the age of twenty one who has a valid driver's license.

VII. SPEED LIMIT.

OHVs operating on streets or highways owned and controlled by Eddy County shall operate at either the posted speed limit or at a speed limit that may be established by the New Mexico State Transportation Commission for such vehicles, whichever is slower.

VIII. EXEMPTIONS.

Off-highway Vehicles (OHV's) being used for agricultural operation are exempt from this Ordinance.

IX. ENFORCEMENT.

Prosecution of violations under this section may be commenced by the issuance of a citation charging the violation. Citations may be issued by a deputy from the Eddy County Sheriff's Office, a wildlife conservation officer, state police officer or any other peace officer with jurisdiction in Eddy County.

X. PENALTIES.

Any individual, firm, partnership, corporation or other entity who violates this ordinance shall be guilty of a penalty assessment misdemeanor and subject to penalties as listed under 66-3-1020 (NMSA 1978)

XI. EFFECTIVE DATE.

This Ordinance shall take effect thirty days after it has been recorded in the book kept by the county for that purpose in the Eddy County Clerk's Office.

PASSED, APPROVED, AND ADOPTED, this 7th day of August, 2018.

EDDY COUNTY BOARD OF COMMISSIONERS



Susan Crockett, Commission Chairman

ATTEST:

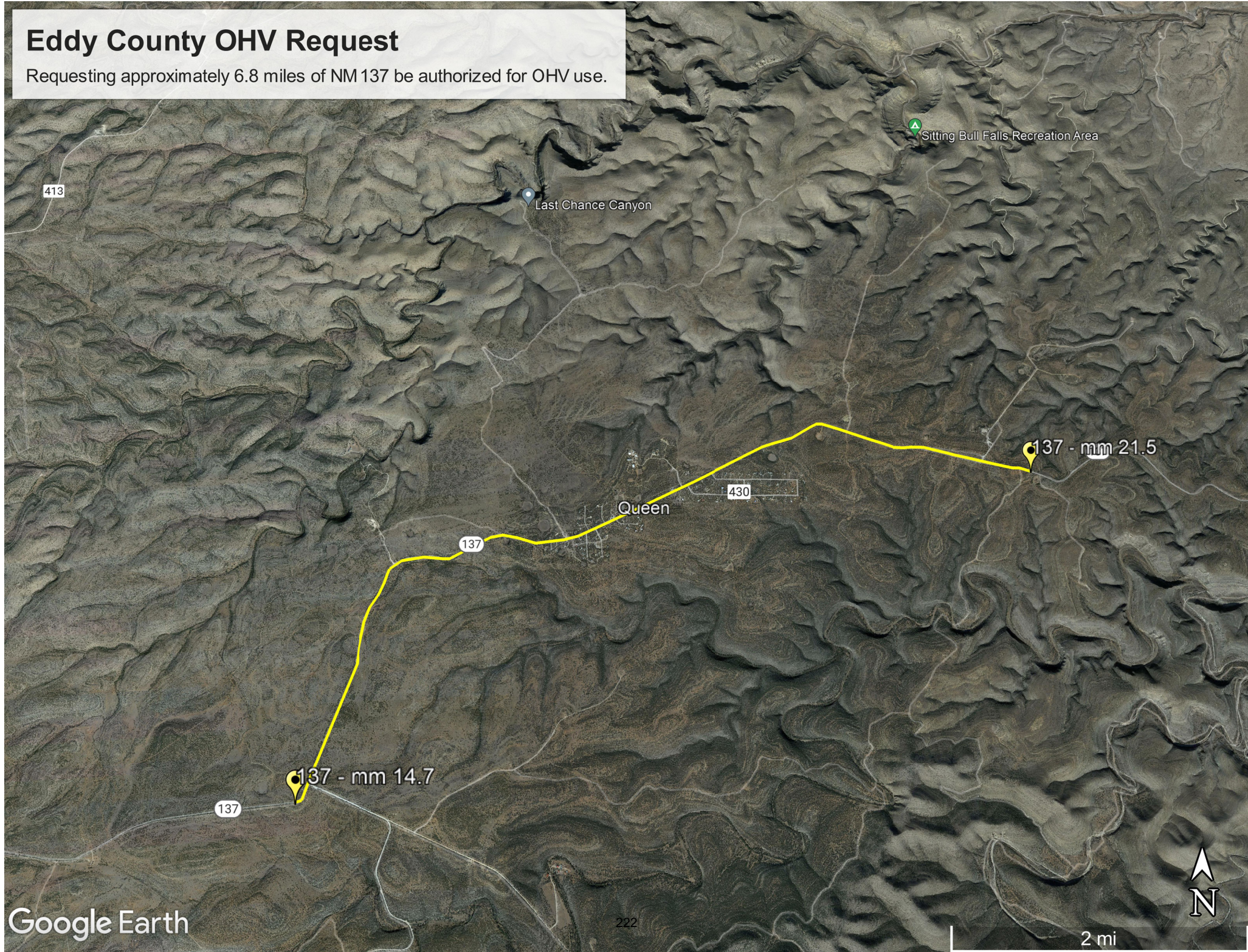


Robin Van Natta, County Clerk



Eddy County OHV Request

Requesting approximately 6.8 miles of NM 137 be authorized for OHV use.



Eddy County OHV Request

Requesting approximately 6.8 miles of NM 137 be authorized for OHV use.

