

RIGHT OF WAY DISPOSAL AND CONTROL OF ACCESS COMMITTEE

Operating Procedures

The Right of Way Disposal and Control of Access Committee acts on recommendations from the Division Engineer for right of way disposals and control of access revisions on all completed highway projects. The committee normally meets on the second Tuesday of each month.

Committee composition is as follows:

Voting Members: Highway Design Branch Manager (1) - Chairperson*
Operations (1)
Right of Way Branch (1)
Design Services Unit (1)
Project Development & Environmental
Analysis Branch (1)
Traffic Engineering Branch (1)

Non-Voting Members: Federal Highway Administration
Department of Environment and Natural Resources
(DENR)**

* In the event of a tie vote, the Chairperson will make the recommendation.

** DENR will only review actions that have potential to remove public access to waters of state or privately owned/managed lands (such as gamelands, parks, etc.)

The Division Engineer shall submit all items requiring committee action to the Committee Chairperson. The Chairperson must receive items at least two weeks in advance of the next monthly meeting in order to be included on the agenda.

The Design Services Unit prepares and distributes the agenda to committee members on the first Tuesday of each month. Agenda items that are deferred due to lack of sufficient information will remain on the agenda for a period of one year. If no action occurs within one year, the item will be removed from the active agenda. If activity on that specific agenda item occurs after one year, the Division Engineer must resubmit it.

Requests by private parties for right of way disposals and/or control of access revisions should be made through the district office. Upon receiving a request, the District Engineer should do the following:

- Make requesting party aware of potential fees, costs, and enhancements (based upon current fair market value) involved should the request be approved.
- Inform the requesting party of the approximate time frame and steps involved in processing the request.
- Determine requesting party's name, address, and phone number.

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- Determine if requesting party is the owner of the adjacent property or an agent of the owner. If an agent, obtain the owner's name, address, and phone number.
- Determine exact location of requested action including existing and proposed site conditions.
- For control of access revisions, determine if requesting party has another means of access to the property.

After investigation by the District Engineer, the request (with all associated documentation) will be forwarded to the Division Engineer for submittal to the committee. The Division Engineer's letter of transmittal to the Chairperson should include a recommendation for approval or denial. (Note: The district and/or division may deny any request at the local level.) The Design Services Unit and the Highway Design Branch Staff Engineer will review the agenda items and, when necessary, will request additional information for the committee's benefit.

RIGHT OF WAY DISPOSALS

The committee will review each request as to its effect on the safety and operation of the state highway involved and for compliance with Section 23 CFR 710, Subpart D, and 23 CFR 771.117(d)(6). Specifically, the committee must determine the following:

- The lands or interest therein to be disposed of will not be needed for highway purposes in the foreseeable future.
- The right of way being retained is adequate under present day standards for the highway facility involved.
- The release will not adversely affect the highway facility or traffic thereon.
- The lands or interest therein to be disposed of are not suitable for retention in order to restore, preserve, or improve the scenic beauty and environmental quality adjacent to the transportation facility.
- The lands to be disposed of are not suitable for use for parks, conservation, recreational, and/or similar purposes.
- The lands to be disposed of are not being used for wetland or stream mitigation.
- No adverse environmental effects are associated with the disposal.

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- If applicable, approval will be subject to accommodating existing utilities.

CONTROL OF ACCESS REVISIONS

The committee studies requests for breaks in control of access, relocation of access, or reduction in control of access very closely. Control of access is the single most important factor affecting the safety and operation of highways. Existing control of access becomes more critical relative to public safety and traffic operation as time passes and traffic volumes grow; therefore, there should be substantial and justifiable reasons for consideration of control of access revisions. Requests for changes in control of access will be evaluated both in terms of the effect on the highway system and the effect on the adjacent and/or nearby property and must be of value to the traveling public. Appropriate capacity analysis and design studies shall be completed (by the requesting party) to fully evaluate impacts on existing and proposed conditions.

The committee must determine that there will be no adverse environmental effects associated with the proposed control of access revision. To the extent possible, projected land uses will be considered in evaluating the environmental effects. When appropriate, the committee will coordinate its review with local planning jurisdictions for their recommendations.

Revisions to control of access should be in compliance with 23 CFR 710, Subpart D, and 23 CFR 771.117(d) (7).

NOTIFICATION - DENIALS

The Chairperson will send a memorandum to the appropriate Division Engineer explaining the reason for a denial. It is the Division Engineer's responsibility to notify the requesting party.

NOTIFICATION - APPROVALS

For all Requests Except Those Involved with Interstate Funds

1. A memorandum from the Chairperson is sent to the State Highway Administrator requesting concurrence with the committee's recommended approval.
2. Upon receipt of the State Highway Administrator's concurrence and/or concurrence with stipulations, a memorandum from the Chairperson will be forwarded to the Manager of the Right of Way Branch. The memorandum will notify the Right of Way Branch of the approval and request they proceed with the necessary steps to implement the approved request. The appropriate Division Engineer and committee members will be sent a copy of this approval memorandum.

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Interstate Projects

1. A letter from the Chairperson is sent to the Federal Highway Administration requesting concurrence with the committee's recommended approval.
2. Upon receipt of the Federal Highway Administration's concurrence and/or concurrence with stipulations, a memorandum from the Chairperson will be forwarded to the Manager of the Right of Way Branch. The memorandum will notify the Right of Way Branch of the approval and request they proceed with the necessary steps to implement the approved request. The appropriate Division Engineer and committee members will be sent a copy of this approval memorandum.

DISPOSALS AND CONTROL OF ACCESS REVISIONS FOR LESS THAN FAIR MARKET VALUE
(ENHANCEMENT VALUE)

Where federal funds participated in the original right of way acquisition, 23 U.S.C. 156 requires that the state charge fair market value or rent for the use or disposal of real property interests, including access control. The Federal Highway Administration may approve an exception to this requirement in the following situations:

1. When the committee concludes that an exception is in the overall public interest for social, environmental, or economic purposes; nonproprietary governmental use; or uses under 23 U.S.C. 142(f), Public Transportation.
2. Use by public utilities in accordance with 23 CFR part 645.
3. Use by railroads in accordance with 23 CFR part 646.
4. Use for bikeways and pedestrian walkways in accordance with 23 CFR part 652.
5. Use for transportation projects eligible for assistance under Title 23 of the United States Code.

All requests for exceptions to charging fair market value will be forwarded to the Federal Highway Administration for approval and will give the reasons for the recommended exception.

The deed transferring the property to other agencies at less than fair market value shall provide for reversion of the property for failure to continue public ownership and use.

APPROVALS:

Len A. Sanderson, PE
State Highway Administrator

Nicholas L. Graf, PE
FHWA Division Administrator

Right of Way Disposal
and/or
Control of Access Revision

CHECKLIST

Committee meets Second Tuesday of each month ♦ Agenda deadline: 2 weeks prior to meeting.

1. Name and address of property owner

2. Name of requesting party (*if other than owner*)

3. Type of Request: _____ Right of Way Disposal
 _____ New Access Point
 _____ Control of Access Revision
4. Intended Land Use: _____
5. County: _____
6. Route: _____ At/Near: _____
7. Is project involved _____ Active _____ Completed _____ N/A
 State Project No. _____
 FA Project No. _____
 Station _____
8. Posted Speed _____
9. Average Daily Traffic _____ Year _____ (*If available*)
10. Do you anticipate problems with/or are the following involved?
 _____ Wetlands _____ Sight Distance
 _____ Traffic Signals _____ Environmental Permits
 Required
 _____ Bridges/Culverts
11. Is a municipality involved? _____ Yes _____ No
 (*If yes, municipality recommendations*) _____
12. Show request on plan sheet or half-size plan sheet. (*Please do not send a partial copy of plan sheet.*)