

**NOTICE OF PROPOSED RULEMAKING
REPEAL AND REPLACEMENT OF 17.4.2 NMAC**

The New Mexico Department of Transportation (NMDOT or the Department) gives notice of its proposed adoption of rulemaking to repeal and replace 17.4.2 NMAC, requirements for occupancy of state highway system right-of-way by utility facilities. The rules that may be adopted as the final rules in this proceeding may include all, part, or none of the language in the proposed rules issued by the Department.

Concise statement of proposed rules: The proposed repeal and replacement of 17.4.2 NMAC will apply to all publicly, privately, cooperatively, municipally, tribally, or governmentally-owned facilities that are to be accommodated, adjusted or relocated within the right-of-way of highways, roads or streets, or other property under the jurisdiction of the New Mexico Department of Transportation. This facilities accommodation policy is provided for the regulation of the location, design and methods for installing, adjusting or relocating, accommodating and maintaining physical facilities on highway rights-of-way or Department-owned property.

Constitutional and statutory authority: Section 62-1-3, NMSA 1978, which authorizes the use of highways and streets by public utilities and public telecommunications service under the Public Utility Act, Section 62-3-1 et seq., NMSA 1978 and the New Mexico Telecommunications Act, Section 63-9A-1 et seq., NMSA 1978; the New Mexico Highway Department Organization Act, Sections 67-3-7, 67-3-12, 67-8-15, 67-8-1, 67-8-17, 67-8-18, 67-8-19, 67-8-20, 67-8-21, 67-8-22, NMSA 1978.

A copy of the full text of the proposed rules may be obtained from the Department's website at <http://www.dot.state.nm.us>, or by contacting the Utility Bureau at (505) 795-1608.

Written initial comments and written response comments shall be filed by the deadlines below. Written comments shall be filed with the Department by mailing to P.O. Box 1149, Santa Fe, New Mexico 87504-1149, electronically by email to utility.rule@state.nm.us, or recorded comments may be left at (505) 216-8117. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing.

For more information as to how to submit comments please contact Dean Serna, the Utility Section Manager at Dean.Serna@state.nm.us or (505) 795-1608. Written initial comments shall be filed no later than March 26, 2021 and response comments shall be filed no later than April 9, 2021. Comments shall refer to 17.4.2 NMAC. All written comments will be posted on the Department's website within three (3) days of their receipt.

A public hearing will be held on April 23, 2021 at 1:00 p.m., which shall be accomplished through Zoom. Instructions on how to connect will be posted on the Department's home webpage at <http://www.dot.state.nm.us> prior to the hearing. The purpose of the hearing is to receive oral comments. Because commenters are afforded the opportunity to submit written comments to the Department, any individual who wants to provide oral comments shall be limited to five minutes to express those comments, subject to the Department's discretion. The Department may also determine that a spokesperson be designated to speak on behalf of an organization, group, or a group of individuals that share the same message or seeks the same goals, in order to maximize the efficiency of the public comment hearing. No testimony or other evidence will be taken at the hearing as this is a rulemaking proceeding.

The record of this case will close on **April 30, 2021**.

Interested persons should contact the Department to confirm the date, time, and place of this public hearing because any hearings are occasionally rescheduled. Any person with a disability requiring special assistance in order to participate in the hearing should contact Dean Serna at (505) 795-1608 at least three (3) business days prior to the commencement of the hearing.