

NOTICE OF PROPOSED RULEMAKING

The New Mexico Department of Transportation (NMDOT) is proposing new rule, 18.1.3 NMAC, Requirement for Use and Occupancy of Property and Right of Way.

Purpose: Pursuant to New Mexico State Transportation Commission Policy 4, dated August 18, 2022, NMDOT rules shall be reviewed by the appropriate Department division or other organization unit every five years. The review found that 18.1.3 NMAC should be purposed as a new rule, and approval of the initial rulemaking action for the new rule was granted to NMDOT by the New Mexico State Transportation Commission on May 19, 2022, pursuant to Section 67-3-11, Subsection C of Section 67-3-12 and Section 67-8-13 NMSA 1978.

Summary of Full Text: The proposed rule addresses NMDOT's obligation to prescribe by rule the conditions under which third-party access to NMDOT rights of way may be used under the authority given to the NMDOT to require permits that specify the reasonable conditions and requirements for third-party access to NMDOT rights of way.

Full Text of the Proposed Rule: A copy of the full text of the proposed rule may be found on the NMDOT website for 30 days prior to the public hearing scheduled in this rulemaking, February 29, 2024, under the following tabs: *Legal Notices* tab: <https://www.dot.nm.gov/public-legal-notice>, and *Public Involvement* tab: <https://www.dot.nm.gov/public-involvement>. A copy of the proposed rule may also be requested by contacting Lauren Vigil at (505) 487-0626 or lauren.vigil@dot.nm.gov. A reasonable fee may be charged for printed copies.

Rulemaking Hearing: NMDOT will hold a public hearing for the purpose of receiving oral and written public comments from interested parties on the proposed new rule, 18.1.3 NMAC. The hearing is scheduled on February 29, 2024, from 10:30 a.m. to 12:00 p.m. at the NMDOT, General Office, Training Rooms 1 and 2, 1120 Cerrillos Road, Santa Fe, NM 87504-1149. Any further information regarding the public hearing may be provided on the NMDOT website under the following tabs: *Legal Notices* tab: <https://www.dot.nm.gov/public-legal-notice>, and *Public Involvement* tab: <https://www.dot.nm.gov/public-involvement>.

Written Comments: To submit written comments on or before February 29, 2024, please send to: Lauren Vigil, PO Box 1149, Room 209, Santa Fe, NM 87504-1149; Telephone: (505) 487-0626; Email: lauren.vigil@dot.nm.gov. Written comments will be accepted from the date this notice is published in the 2024 New Mexico Register, January 16, 2024, and until the close of the hearing scheduled in this rulemaking, February 29, 2024. If you plan to submit written comments, please make sure any documentation contains your name, phone number and email address, and if you plan to submit written comments at the hearing, please bring three copies of any documents to the hearing. If submitting written comments by email, please indicate the rule number (18.1.3 NMAC) 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 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 NMDOT'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 may contact: Lauren Vigil at Telephone: (505) 487-0626 or at Email: lauren.vigil@dot.nm.gov at least ten days before the hearing.