

TITLE 18 TRANSPORTATION AND HIGHWAYS
CHAPTER 14 RAILROADS
PART 2 RAILROAD SAFETY

18.14.2.1 ISSUING AGENCY: New Mexico Department of Transportation.
[18.14.2.1 NMAC - Rp, 18.14.2.1 NMAC, 7/1/2024]

18.14.2.2 SCOPE: Except as provided herein, this rule applies to all railroad companies and other common carriers, as provided in Paragraph (3) of Subsection A of Section 63-7-1.1 NMSA 1978 and to all rail safety activities as to which the department has authority pursuant to federal railroad safety laws and orders.
[18.14.2.2 NMAC - Rp, 18.14.2.2 NMAC, 7/1/2024]

18.14.2.3 STATUTORY AUTHORITY: Sections 63-3-36, 67-3-6.1, 67-3-11 NMSA, and 2023 N.M. Laws, Chapter 100, Section 81.
[18.14.2.3 NMAC - Rp, 18.14.2.3 NMAC, 7/1/2024]

18.14.2.4 DURATION: Permanent.
[18.14.2.4 NMAC - Rp, 18.14.2.4 NMAC, 7/1/2024]

18.14.2.5 EFFECTIVE DATE: July 1, 2024, unless a later date is cited at the end of a section.
[18.14.2.5 NMAC - Rp, 18.14.2.5 NMAC, 7/1/2024]

18.14.2.6 OBJECTIVE: The purpose of this rule is to establish safety requirements for railroad companies and other common carriers operating in New Mexico and to establish basic procedures for use when public grade crossings are sought to be opened or closed.
[18.14.2.6 NMAC - Rp, 18.14.2.6 NMAC, 7/1/2024]

18.14.2.7 DEFINITIONS: In addition to the definitions set out in 49 CFR Parts 200 to 268 and in the American railway engineering and maintenance-of-way association (AREMA) clearances manual, as used in this rule:

- A. Commission** means the New Mexico public regulation commission.
- B. Private grade crossing** means any railroad crossing of a roadway which is not a public grade crossing, including any at-grade crossing where the highway, road or street is privately owned.
- C. Public grade crossing** means a location within the state, other than a location where one or more railroad tracks cross one or more railroad tracks at-grade, where a public highway, public road, or public street, including any associated public sidewalks and public pathways, crosses one or more railroad tracks at-grade. The term includes a crossing only if any public authorities maintain the roadway on all sides of the crossing.
[18.14.2.7 NMAC - Rp, 18.14.2.7 NMAC, 7/1/2024]

18.14.2.8 REFERENCES TO OTHER DOCUMENTS: Whenever this rule refers to a federal or state statute, rule, or regulation, or to a technical or other document, the reference, unless specifically stated to the contrary, is continuous and is intended to refer to the most current version of the document.
[18.14.2.8 NMAC - Rp, 18.14.2.8 NMAC, 7/1/2024]

18.14.2.9 ADOPTION OF MINIMUM SAFETY REQUIREMENTS BY REFERENCE: The department adopts by reference and requires a railroad company to comply with the safety requirements as set forth in:

- A. Code of federal regulations.** 49 CFR parts 200 to 268; and 23 CFR Part 655, Subpart F;
- B. AREMA clearances manual.** All new construction shall comply with Chapter 28, clearances, of the manual for railway engineering (MRE) published by the American railway engineering and maintenance-of-way association (AREMA); available at: www.arema.org.
[18.14.2.9 NMAC - Rp, 18.14.2.91 NMAC, 7/1/2024]

18.14.2.10 RENEWAL OF STATE PARTICIPATION AGREEMENT: The department may annually renew the agreement between New Mexico and the federal railroad administration for state participation in the national railroad safety program.

[18.14.2.10 NMAC - Rp, 18.14.2.10 NMAC, 7/1/2024]

18.14.2.11 GOVERNMENTAL AGREEMENTS: The department may enter into any agreement with another governmental entity, such as the New Mexico department of transportation, in order to cooperatively enhance railroad safety, promote compliance with the federal railroad safety laws, and implement the benefits of the national railroad safety program.

[18.14.2.11 NMAC - Rp, 18.14.2.11 NMAC, 7/1/2024]

18.14.2.12 OPENING AND CLOSING OF PUBLIC GRADE CROSSINGS:

A. Railroad companies are subject to the construction and maintenance requirements set forth in Section 63-3-36 NMSA 1978.

B. The department shall determine whether to open or close a crossing on its own railroad property or on a state highway that crosses a railroad.

C. Any person who believes that an additional public grade crossing is necessary and in the public interest, or that an existing public grade crossing is unnecessary and not in the public interest, may request that the department review the necessity of such a crossing. The department shall consider the request and act to ensure that public grade crossings conform with applicable safety standards.

D. Any railroad company contemplating the closure of an existing public grade crossing of a public highway, city, town or village street at grade, must notify the department at least 60 days prior to any actual closure of such public grade crossing. The department shall promptly notice the pending closure, conduct a review, the department and issue an order prohibiting or permitting the closure.

E. United States department of transportation (USDOT) railroad identifiers shall be posted at each existing railroad crossing in New Mexico.

[18.14.2.12 NMAC - Rp, 18.14.2.12 NMAC, 7/1/2024]

18.14.2.13 REPORTS OF ACCIDENTS AND INCIDENTS:

A. Whenever a railroad company is required by 49 CFR 225.9 to report an accident/incident promptly to the federal railroad administration, the railroad shall promptly report the same accident/incident information by telephone to the department.

B. A railroad company must immediately report to the New Mexico state police and to the New Mexico environment department as well as to local law enforcement or tribal police whenever it learns of the occurrence of an accident/incident involving a railroad car carrying hazardous material as provided in 49 CFR 172. Each report must state the:

- (1) name of the railroad;
- (2) name, title, and telephone number of the person making the report;
- (3) time, date, and location of the accident/incident;
- (4) circumstances of the accident/incident;
- (5) number of fatalities and injuries involved, if any; and
- (6) specific hazardous commodity, if any, involved in the accident/incident..

C. A railroad company shall furnish to the department a copy of each monthly accident/incident report it files with the federal railroad administration pursuant to 49 CFR 225. The report shall be submitted to the department at the same time it is filed with the federal railroad administration.

D. The furnishing of any report required under Subsections A, B, and C of 18.14.2.12 NMAC will not constitute a waiver of any evidentiary privilege as to such report provided for by federal or state law.

E. The Department will not exercise any authority with respect to the opening or closing of a private grade crossing.

[18.14.2.13 NMAC - Rp, 18.14.2.13 NMAC, 7/1/2024]

18.14.2.14 MAPS AND PROFILES: On or before January 15 of each year, a railroad company shall provide the department with a map showing all lines and grade crossings the railroad has in New Mexico and any changes to its lines and grade crossings since the previous filing. In addition, the company shall provide a list of its grade crossings in New Mexico and any changes to its grade crossings since the previous filing. The furnishing of this information may be accomplished electronically, through the provision of appropriate access to the national highway-rail crossing inventory, obtainable from the federal railroad administration.

[18.14.2.14 NMAC - Rp, 18.14.2.4 NMAC, 7/1/2024]

18.14.2.15 - 18 [RESERVED]

HISTORY OF 18.14.2 NMAC:

Pre-NMAC History. The material in this rule was previously filed with the State Records Center:

SCC 72-4, Order No. 2202, Docket 335, Regulations Governing Clearances on Railroads with Reference to Side and Overhead Structures and Parallel Tracks, filed 10/2/1972

SCC-85-7, In Re Adoption of Railroad Rules and Regulations, filed 9/18/1985

History of Repealed Material.

SCC 72-4, Order No. 2202, Docket 335, Regulations Governing Clearances on Railroads with Reference to Side and Overhead Structures and Parallel Tracks, filed 10/2/1972 - Repealed effective 9/30/2011

SCC-85-7, In Re Adoption of Railroad Rules and Regulations, filed 9/18/85 - Repealed effective 9/30/2011.

18.14.2 NMAC Railroads - Railroad Safety filed 9/16/2011, repealed 7/1/2024

Other History:

18.14.2 NMAC, Railroad Safety filed 9/16/2011 was replaced by 18.14.2 Railroad Safety effective 7/1/2024.