

TITLE 18 TRANSPORTATION AND HIGHWAYS
CHAPTER 60 PIPELINE CONSTRUCTION AND MAINTENANCE
PART 4 PIPELINE SAFETY ENFORCEMENT PROCEDURES

18.60.4.1 ISSUING AGENCY: New Mexico public regulation commission.
[18.60.4.1 NMAC - Rp, 18.60.4.1 NMAC 4/7/2026]

18.60.4.2 SCOPE: This rule applies to all owners and operators of gas and hazardous liquid pipelines and underground facilities, excavators, and one-call notification systems in New Mexico subject to the jurisdiction of the commission pursuant to applicable laws.
[18.60.4.2 NMAC - Rp, 18.60.4.1 NMAC 4/7/2026]

18.60.4.3 STATUTORY AUTHORITY: Sections 62-14-9, 62-14-9.1, 62-14-10, 62-19-21, and 70-3-13 NMSA 1978.
[18.60.4.3 NMAC - Rp, 18.60.4.1 NMAC 4/7/2026]

18.60.4.4 DURATION: Permanent.
[18.60.4.4 NMAC - Rp, 18.60.4.1 NMAC 4/7/2026]

18.60.4.5 EFFECTIVE DATE: April 7, 2026 unless a later date is cited at the end of a section.
[18.60.4.5 NMAC - Rp, 18.60.4.1 NMAC 4/7/2026]

18.60.4.6 OBJECTIVE: The purpose of this rule is to prescribe procedures to administer and enforce Chapter 62, Article 14 NMSA 1978, and the Pipeline Safety Act, Sections 70-3-11 to 70-3-20 NMSA 1978.
[18.60.4.6 NMAC - Rp, 18.60.4.1 NMAC 4/7/2026]

18.60.4.7 DEFINITIONS:

- A. **Definitions beginning with “A”:** [RESERVED]
- B. **Definitions beginning with “B”:** “bureau” means the pipeline safety bureau of the New Mexico public regulation commission.
- C. **Definitions beginning with “C”:** [RESERVED]
- D. **Definitions beginning with “D”:** [RESERVED]
- E. **Definitions beginning with “E”:** [RESERVED]
- F. **Definitions beginning with “F”:** [RESERVED]
- 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. **Definitions beginning with “L”:** [RESERVED]
- M. **Definitions beginning with “M”:** [RESERVED]
- N. **Definitions beginning with “N”:** [RESERVED]
- O. **Definitions beginning with “O”:** [RESERVED]
- P. **Definitions beginning with “P”:** [RESERVED]
- Q. **Definitions beginning with “Q”:** [RESERVED]
- R. **Definitions beginning with “R”:** “respondent” means an owner or operator of gas or hazardous liquid pipelines or underground facilities, an excavator, or a one-call notification system.
- S. **Definitions beginning with “S”:** “staff” means employees of the pipeline safety bureau of the New Mexico public regulation commission.
- T. **Definitions beginning with “T”:** [RESERVED]
- U. **Definitions beginning with “U”:** [RESERVED]
- 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]

[18.60.4.7 NMAC - Rp, 18.60.2.7 NMAC, 4/7/2026]

18.60.4.8 INSPECTIONS AND INVESTIGATIONS:

A. Pipelines:

(1) Staff is authorized to enter upon, inspect, and examine, at reasonable times and in a reasonable manner, those written procedures, plans, records, and pipeline facilities of an owner or operator relevant to determining whether the owner or operator is in compliance with applicable laws.

(2) Staff may conduct an inspection pursuant to:

- (a) scheduling by staff;
- (b) a written complaint received from a member of the public;
- (c) information obtained from a previous inspection;
- (d) an accident or incident; or
- (e) whenever the commission or the director deems it appropriate.

(3) If, after an inspection, staff believes that further information is needed to determine appropriate action, staff may request specific information from the owner or operator. The owner or operator shall answer the request within 30 days of its receipt, unless staff determines extenuating circumstances require a shorter response period.

(4) The commission may, subject to applicable laws, require testing of portions of facilities that have been involved in, or affected by, an incident or accident. The commission shall make every effort to negotiate with the owner or operator of the facility a mutually acceptable testing protocol.

(5) When the information obtained from an inspection, investigation, or from other appropriate sources indicates that further corrective action is warranted, the bureau chief shall issue a notice of probable violation or notice of intent to issue a hazardous facility order, as appropriate.

B. Excavation: A one-call notification system, underground facility operator or owner, excavator, or project owner, as appropriate, shall, upon reasonable notice and presentation of identification, grant staff access to:

(1) an excavation site for the purpose of previewing, observing, or examining an excavation activity;

(2) all records pertaining to an excavation activity that are in the possession of the one-call notification system, underground facility operator or owner, excavator, or project owner.

[18.60.4.8 NMAC - Rp, 18.60.2.8 NMAC, 4/7/2026]

18.60.4.9 SERVICE OF PROCESS: Whenever this rule requires notice or other process to be served on a respondent, the notice or other process shall be served at the last known email or physical address(es) of the respondent.

[18.60.4.9 NMAC - Rp, 18.60.2.9 NMAC, 4/7/2026]

18.60.4.10 NOTICE OF PROBABLE VIOLATION:

A. Except as otherwise provided in Section 70-3-19 NMSA 1978, the bureau chief shall begin an enforcement proceeding by instructing staff to serve a notice of probable violation on the respondent.

B. The bureau chief may instruct staff to also serve a notice of probable violation of applicable laws to the respondent or the respondent’s agent at an excavation site. In such case, the bureau chief shall also serve the notice of probable violation by electronic mail or regular mail on the respondent as prescribed in 18.60.4.9 NMAC.

C. The bureau chief shall develop enforcement guidelines to determine administrative or civil penalties or other sanctions in accordance with all relevant and applicable laws.

D. A notice of probable violation shall include a statement of those provisions of applicable laws that the respondent is alleged to have violated, a statement of the evidence upon which the allegations are based, a summary of administrative or civil penalties or other sanctions, a statement that the respondent may request a settlement conference within 30 days of receipt of the notice of probable violation, and instructions regarding how the respondent may request a settlement conference. A respondent shall respond to the allegations in writing within 30 days of receipt of the notice of probable violation. The bureau chief may, in their discretion and in accordance with applicable laws, grant or deny a request for a settlement conference.

E. If, in their discretion, the bureau chief determines that a settlement conference would be useful, the notice of probable violation shall also contain a date, time and location for a settlement conference, and a statement

that if the respondent fails to appear for the settlement conference, the respondent will be deemed to have admitted the violation.

F. The bureau chief may instruct staff to amend a notice of probable violation at any time prior to issuance of a final order.

[18.60.4.10 NMAC - Rp, 18.60.2.10 NMAC, 4/7/2026]

18.60.4.11 ATTORNEY REPRESENTATION: In settlement conferences, commission hearings conducted pursuant to this rule, and arbitrations and mediations conducted pursuant to 18.60.5 NMAC, respondents shall be represented as provided in this section.

A. An individual or sole proprietorship shall appear in person on his or her own behalf or may be represented by an attorney.

B. A partnership with fewer than 10 partners, whether limited or general, who are all natural persons, may appear and be represented by an attorney or by a general partner or manager who has been authorized by the general partnership to do so.

C. A limited liability company with fewer than 10 members, who are all natural persons, may appear and be represented by an attorney or by a manager or member who has been authorized by the limited liability company to do so.

D. A corporation whose voting shares are held by a single shareholder or closely knit group of shareholders who are all natural persons active in the operation of the business may appear and be represented by an attorney or by an officer or manager who has been authorized by the corporation to do so.

E. All other persons shall be represented by an attorney.

[18.60.4.11 NMAC - Rp, 18.60.4.11 NMAC 4/7/2026]

18.60.4.12 SETTLEMENT CONFERENCES:

A. The bureau chief, or their designee, may conduct a settlement conference with the respondent at the date, time and in the manner set forth in the notice of probable violation, or at such other time agreed to by the bureau chief or their designee and the respondent. At the settlement conference, the bureau chief or designee shall explore with the respondent the facts of the probable violation and the possibility of reaching an agreed upon resolution, which may include dismissal or a voluntary settlement agreement with administrative or civil penalties or other sanctions.

B. Voluntary dismissal: If the bureau chief and respondent agree to dismiss the notice of probable violation, the director shall issue a letter dismissing the probable violation which shall resolve the matter.

C. Voluntary settlement agreement: If the bureau chief and respondent agree to settle, the bureau chief and respondent shall enter into and sign a written settlement agreement which shall resolve the matter. The written settlement agreement shall include any administrative or civil penalties or other sanctions and the respondent's knowing waiver of his right to a formal hearing. The written settlement agreement, signed by the parties, shall be filed with the commission.

D. Failure to settle: If the respondent appears at the settlement conference but does not agree to terms and conditions that are satisfactory to the bureau chief, the bureau chief shall request a hearing before the commission pursuant to 18.60.4.16 NMAC or file a petition in district court for injunctive action subject to 70-3-19 NMSA 1978.

E. Failure to appear. If the respondent fails to appear for the settlement conference, the respondent will be deemed to have admitted the violation. Within 10 days, the bureau chief may serve on respondent a determination of violation. The determination shall include notice of the respondent's right to appeal pursuant to 18.60.4.16 NMAC.

F. Alternative procedures: The bureau chief may instruct staff to request a hearing before the commission or file a petition in district court for injunctive action without offering to hold a settlement conference.

G. Approval by the commission: If the commission has not acted within 45 days of the filed agreement, the agreement is deemed approved, unless the commission determines there is good cause to extend the period in which it may act upon the agreement.

[18.60.4.12 NMAC - Rp, 18.60.2.12 NMAC, 4/7/2026]

18.60.4.13 DISPOSITIONAL HEARINGS: [RESERVED}

18.60.4.14 ALTERNATIVE DISPUTE RESOLUTION:

A. The commission encourages owners and operators of underground facilities, project owners, project engineers, and excavators to privately negotiate and settle disputes arising from excavation damage to underground facilities and construction or design expenses related to improper underground facility location.

B. In the event the parties are unable to resolve such disputes privately, any owner or operator of underground facilities, project owner, project engineer, or excavator may request mediation or arbitration from the commission.

C. Staff, and their attorneys, may participate in mediation or arbitration proceedings.

D. In mediation and arbitration proceedings, persons shall be represented in accordance with the requirements of 18.60.4.11 NMAC.

[18.60.4.14 NMAC - N, 4/7/2026]

18.60.4.15 STIPULATION: [RESERVED]

18.60.4.16 MEDIATION OF EXCAVATION DAMAGE DISPUTES:

A. Designation of mediator. If any of the parties request mediation, the commission shall designate a mediator. The mediator may be a permanent or temporary employee of the commission or another state agency or any other individual acceptable to the parties, including the bureau chief or designee. If the parties request a mediator who is not an employee of the commission, the commission shall not approve the request unless the parties agree in writing to bear as their own the costs of obtaining the mediator's services. The mediator shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all parties at the time the mediator is assigned by the commission and all parties agree that the mediator may serve. The mediator shall not, subsequent to serving as a mediator in an excavation damage dispute, participate in any subsequent proceeding in the same cause as a hearing examiner, advisory staff, staff counsel or expert witness, or as an attorney, expert witness, or representative of any party to the proceeding.

B. Duties of mediator: The mediator shall notify the parties by telephone or mail of the time and place of the mediation conference, which will be held at commission offices unless otherwise directed by the mediator. The notice may direct the parties to send the mediator, but not other parties, their settlement positions and other necessary information that could facilitate the mediation conference, including the results of staff's investigation of the damage. In addition, the mediator may require counsel to have their clients present at the mediation conference or accessible by telephone. The mediation conference shall be held within 20 days of the date of the notice unless the mediator determines good cause is shown for an extension. If the parties are able to reach a settlement of their dispute, in appropriate cases the mediator shall assist the parties in preparing a written agreement to reflect that resolution. The written settlement agreement, signed by the parties, shall be filed with the commission.

If the parties are unable to reach a complete settlement of their dispute, the mediator shall advise the parties that they may request arbitration or file an action for civil liability for damages in district court.

C. Inadmissibility of settlement offers: Offers of settlement and statements in furtherance of settlement made in the course of mediation are privileged and, except by agreement among all parties, shall not be admissible as evidence in any formal hearing before the commission nor disclosed by the mediator voluntarily or through discovery or compulsory process.

D. Approval by the commission: If the commission has not acted within 45 days of the filed agreement, the agreement is deemed approved, unless the commission determines there is good cause to extend the period in which it may act upon the agreement.

[18.60.4.16 NMAC - N, 4/7/2026]

18.60.4.17 BINDING ARBITRATION OF EXCAVATION DAMAGE DISPUTES:

A. Request for arbitration: Any party to a dispute arising from excavation damage to underground facilities may request binding arbitration of the dispute. The request shall be in writing to the commission and shall include a concise statement of the grounds for the dispute, the remedy sought, and an acknowledgment that the requesting party agrees to be bound by the decision of the arbitrator. The commission shall forward the request for arbitration to all other parties and require that they submit a written response within 10 days of receipt of the commission's letter forwarding the request.

(1) If the other parties agree to arbitration of the dispute, they shall include in their response to the commission a concise statement of their position with regard to the merits of the dispute and an acknowledgment that they agree to be bound by the decision of the arbitrator.

(2) If the other parties will not agree to arbitration, they shall so state in their response.

(3) If the other parties either fail to respond to a request for arbitration or do not agree to arbitration, the requesting party retains the right to proceed with an action for civil liability for damages in district court.

B. Designation of arbitrator: If all parties agree to arbitration, the commission shall designate an arbitrator. The arbitrator may be a permanent or temporary employee of the commission or another state agency or any other individual who is acceptable to the parties to the dispute. The designated arbitrator shall have no official, financial or personal conflict of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all parties at the time of the commission's designation and all parties agree that the arbitrator may serve. The parties shall be required to indicate their consent in writing to the designated arbitrator within ten days of the date of the commission's letter of designation. If the parties request an arbitrator who is not an employee of the commission, the commission shall not approve the request unless the parties agree in writing to bear as their own the costs of obtaining the arbitrator's services. Any employee of the commission designated to arbitrate a dispute under these provisions shall not participate in any subsequent proceeding in the same cause regarding excavation damage to underground facilities as a hearing examiner, advisory staff, staff counsel, or expert witness or as an attorney, expert witness, or representative of any party to the proceeding.

C. Duties of arbitrator:

(1) The arbitrator shall render a decision in the arbitration proceeding within 60 days of the date the parties approved the arbitrator, unless good cause exists to extend the time.

(2) The arbitrator shall fix a time and place for an arbitration and shall serve notice of arbitration on all parties at least 10 days in advance of the arbitration. The arbitrator may issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence and shall have the power to administer oaths. The parties may offer such evidence and produce such additional evidence as the arbitrator may deem necessary to an understanding and determination of the dispute. The arbitrator shall decide the relevancy and materiality of the evidence offered. The arbitrator shall give consideration to but shall not be bound by the New Mexico rules of evidence. No stenographic or electronic record will be made of the testimony at the hearing unless requested by a party, who shall bear the cost of the record.

(3) The arbitrator shall permit discovery only if it will not unduly complicate, burden, or impede the expeditious and informal nature of the proceeding.

(4) At the close of or soon after the hearing, the arbitrator will issue a brief written decision, which need not contain findings of fact and conclusions of law, and shall be filed with the commission. The arbitrator's decision will be binding on the parties, but will not be deemed a decision of the commission and shall have no precedential effect.

D. Inadmissibility of settlement offers: Unless agreed to by all the parties, no statements, admissions, or offers of settlement made during the course of arbitration proceedings shall be admissible as evidence in any formal proceeding nor shall the arbitrator disclose the same voluntarily or through discovery or compulsory process. Nothing in this section, however, shall preclude the arbitrator from issuing a brief written decision describing his conclusions and the bases for them.

E. Approval by the commission: If the commission has not acted within 45 days of the filed written decision, the arbitrator's decision is deemed approved, unless the commission determines there is good cause to extend the period in which it may act upon the decision.

[18.60.4.17 NMAC - N, 4/7/2026]

18.60.4.18 HEARINGS BEFORE THE COMMISSION:

A. Request for hearing:

(1) **By the bureau chief:** At any time after a notice of probable violation has been served on the respondent, the bureau chief may request a hearing before the commission.

(2) **By the respondent:** A respondent may appeal a determination made by the bureau chief pursuant to Subsection D of 18.60.4.12 NMAC or by filing a request for hearing before the commission. The respondent shall file the appeal with the docket filing unit of the commission within 30 days of the date the bureau chief's determination is mailed to the respondent. The appeal shall be in writing and signed by the respondent and shall set forth the factual basis for the appeal and the nature of the relief requested. An appeal may request a stay of the director's determination pending a decision of the commission.

B. Notice of hearing:

(1) The commission shall:

(a) fix a time and location for a public hearing on the alleged violations; and

(b) serve notice of the hearing upon the respondent by mail as prescribed by 18.60.4.9 NMAC not less than 10 days prior to the date of the hearing with copies of the notice of probable violation, staff's inspection reports, and any third party complaints or damage reports.

(2) The notice shall state in boldface type that failure to appear at the hearing may result in a default judgment and the imposition of administrative or civil penalties or other sanctions.

C. **Hearing procedures:** The commission may appoint a hearing examiner or may hear the matter itself. The commission or hearing examiner shall conduct the hearing in accordance with the commission rules of procedure, 1.2.2 NMAC. If a hearing examiner conducts the hearing, the hearing examiner shall submit to the commission a recommended decision with findings of fact and conclusions of law.

[18.60.4.18 NMAC - Rp, 18.60.4.14 NMAC, 4/7/2026]

18.60.4.19 FINAL ORDER: After a hearing before the commission pursuant to 18.60.4.16 NMAC, and the consideration of any exceptions pursuant to the commission rules of procedure 1.2.2 NMAC, the commission shall issue a final order that may include:

A. findings of fact and conclusions of law;

B. the amount of the penalty and the procedure for its payment, if a civil or administrative penalty is assessed; and

C. a statement of the actions required to be taken by the respondent and the time by which each action must be accomplished.

[18.60.4.19 NMAC - Rp, 18.60.4.16 NMAC, 4/7/2026]

18.60.4.20 PAYMENT OF PENALTY:

A. A respondent shall pay an administrative or civil penalty agreed to in a voluntary settlement agreement, the bureau chief's notice of probable violation letter, assessed in a bureau chief's final or default disposition pursuant to 18.60.4.13 NMAC, or by commission final order via certified check or money order made payable to the New Mexico public regulation commission and shall submit the payment to the address provided by the commission.

B. If a respondent fails to pay the full amount of an administrative or civil penalty within 20 days of receipt of a director's disposition or commission final order, or other time frame specified in the disposition or order, the commission or director may file an action in district court to collect the assessed penalty.

[18.60.4.20 NMAC - Rp, 18.60.4.17 NMAC, 4/7/2026]

18.60.4.21 REFERRAL FOR PROSECUTION: If an employee of the pipeline safety bureau of the commission becomes aware of any actual or possible activity subject to criminal penalties under Section 70-3-19 NMSA 1978, the employee shall report such actual or possible activity to the office of the attorney general for the state of New Mexico.

[18.60.4.19 NMAC - Rp, 18.60.4.18 NMAC, 4/7/2026]

History of 18.60.4 NMAC:

Pre-NMAC History: The material in this rule was derived from that previously filed with the Commission of Public Records-State Records Center and Archives.

SCC 69-29, Order No. 2966, Cause No.516, filed 9/24/1969.

SCC 71-2, Amended Order No. 2966, Cause No.516, filed 3/1/1971.

SCC 72-1, Amended Order No. 3096, Cause No.516, filed 1/12/1972.

SCC 77-2, Order No. 3096-C, Docket No.750, filed 3/4/1977.

SCC 79-4, Regulations Relating to Minimum Safety Standards for the Transportation of Natural and other Gas by Pipeline, filed 6/27/1979.

SCC 84-9-PL, Regulation for the Transportation of Natural and other Gas by Pipeline - Minimum Standards, filed 11/26/1984.

History of Repealed Material: 18 NMAC 60.1, General Provisions; 18 NMAC 60.2, Reports Required for New Master Meters and Third Party Damage; 18 NMAC 60.3, Requirement of Filing of Procedural Manual; 18 NMAC 60.4, Classification and Repair of Leaks; 18 NMAC 60.5, Pipeline Safety Program Procedures; 18 NMAC 60.6, Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards: Annual and Incident Reports; 18 NMAC 60.7, Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards; 18 NMAC 60.8, Transportation of Hazardous Liquids by Pipeline; 18 NMAC 60.9, Pipeline Safety Regulations:

Drugs & Alcohol Testing; 18 NMAC 60.10, Procedures for Transportation Workplace Drug & Alcohol Testing Programs (all filed 5/1/1996) repealed 7/1/2003.
18.60.4 NMAC, Pipeline Safety Enforcement Procedures filed 6/27/2006, Repealed effective 4/7/2026.

Other History:

SCC 84-9-PL, Regulation for the Transportation of Natural and other Gas by Pipeline - Minimum Standards, filed 11/26/1984, was renumbered into first version of the New Mexico Administrative Code as 18 NMAC 60.1 through 18 NMAC 60.10, effective 6/5/1996.

18 NMAC 60.1 through 18 NMAC 60.10 (all filed 5/1/1996), were replaced by 18.60.2 NMAC, Pipeline Safety, effective 7/1/2003.

Those applicable portions of 18.60.2 NMAC, Pipeline Safety (filed 6/16/2003) replaced by 18.60.4 NMAC, Pipeline Safety Enforcement Procedures, effective 7/17/2006.

18.60.4 NMAC, Pipeline Safety Enforcement Procedures filed 6/27/2006, Replaced by 18.60.4 NMAC, Pipeline Safety Enforcement Procedures effective 4/7/2026.