



# COLORADO

## Department of Transportation

Office of Policy and Government Relations

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**DATE:** October 17, 2019  
**TO:** Transportation Commission  
**FROM:** Herman Stockinger  
**SUBJECT:** Authorize Commencement of Rulemaking for 2 CCR 601-18, State Highway Utility Accommodation Code ("Utility Code")

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### Purpose

To authorize the Department to commence the rulemaking process by opening the State Highway Utility Accommodation Code ("Utility Code"), 2 CCR 601-18.

### Action

To pass a resolution authorizing the Department to commence rulemaking to update the Utility Code and delegate authority to an Administrative Hearing Officer to conduct a public hearing.

### Background

Pursuant to § 43-1-225, C.R.S., the Transportation Commission has the authority to make reasonable regulations for the installation, construction, maintenance, repair, renewal, and relocation of utility facilities on state highway right of way. The Utility Code was adopted in 2009, and establishes a uniform and consistent statewide process for accommodating utilities within state highway right of way to ensure that such accommodations do not adversely affect the highway or traffic safety, or otherwise impair the operation, aesthetic quality or maintenance of the transportation facility, or conflict with applicable law.

As part of required periodic review of all its rules, CDOT reviewed the Utility Code to ensure requirements and business processes are up to date. Staff reached out to stakeholders during the review, and solicited comments by email and with workshops held around the state to prepare proposed revisions to the Utility Code. CDOT compiled a 56-page comment matrix with all the comments received during the outreach. During this effort, SB18-167 (Concerning Increased Enforcement of Requirements Related to the Location of Underground Facilities) passed, which required more detailed documentation of subsurface utility engineering in order to ensure accurate information for utilities would be available and to reduce the risk of utility hits statewide. While SB18-167 did not directly impact the Utility Code, it works in tandem with CDOT's efforts to ensure proper documentation by utilities is submitted so that CDOT will have an accurate and comprehensive database of where utilities are located in the right of way.

Staff can provide a detailed summary of the proposed changes upon request. The key proposed changes to the Utility Code include the following:

- Rule 3.3.4.6 is proposed to be changed from "may" to "shall" to make it mandatory that utilities submit an as-constructed plan within 45 days of completion of the work. The Utility



Code already enabled CDOT to obtain as-constructed plans from utilities; however, this was at the discretion of the Department and not mandatory. The change also requires as-constructed plans to be submitted electronically unless CDOT and the utility agree in writing that paper plans are acceptable.

- Rule 3.3.4.6 is also being revised so that stamped record sets will be required if the utility design was performed by a licensed professional engineer. This was not the practice in the past, and was never addressed in the Utility Code. The proposed change is consistent with the state law requiring work under the responsible charge of professional engineer to be stamped by the engineer. This is also supported by the new requirements set by SB18-167.

#### Next Steps

Staff will proceed with the next steps to comply with the rulemaking requirements set forth by the Administrative Procedure Act.

#### Attachments

##### Resolution

Redlined draft of 2 CCR 601-18 showing proposed changes ([available here](#))

