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**NEW MEXICO**  
**Public Regulation Commission**  
**Motor Transportation Rules**



***Commissioners***

Jason A. Marks	District 1
Patrick H. Lyons	District 2
Jerome D. Block	District 3
Theresa Becenti-Aguilar	District 4
Ben L. Hall	District 5

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# TABLE OF CONTENTS

## MOTOR CARRIER RULES

18.3.1 NMAC	General Provisions	1
18.3.2 NMAC	Operating Authorities	6
18.3.3 NMAC	Financial Responsibility	20
18.3.4 NMAC	Safety Requirements	23
18.3.5 NMAC	[Reserved]	
18.3.6 NMAC	Tariffs	29
18.3.7 NMAC	Reports, Records, and Accounts	33
18.3.8 NMAC	Changes in Certificates and Permits	37
18.3.9 NMAC	Leasing of Equipment	44
18.3.10 NMAC	Parental Responsibility	46
18.3.11 NMAC	Household Goods Carriers	48
18.3.12 NMAC	Towing Services	55
18.3.13 NMAC	Registration of Interstate Carriers	64
18.3.14 NMAC	Ambulance Services	66
18.3.15NMAC	Fuel Surcharge For Commission Rate-Regulated Motor Carriers	76

**TITLE 18           TRANSPORTATION AND HIGHWAYS**  
**CHAPTER 3        MOTOR CARRIER GENERAL PROVISIONS**  
**PART 1            GENERAL PROVISIONS**

**18.3.1.1           ISSUING AGENCY:** New Mexico Public Regulation Commission.  
[18.3.1.1 NMAC - N, 12-30-02]

**18.3.1.2           SCOPE:** This rule applies to all motor carriers subject to the jurisdiction of the commission.  
[18.3.1.2 NMAC - Rp, SCC Rules 201.06 and 201.08, 12-30-02]

**18.3.1.3           STATUTORY AUTHORITY:** NMSA 1978 Sections 8-8-4 and 65-2A-4.  
[18.3.1.3 NMAC - Rp, SCC Rule 201.05, 12-30-02; A, 1-1-05]

**18.3.1.4           DURATION:** Permanent.  
[18.3.1.4 NMAC - N, 12-30-02]

**18.3.1.5           EFFECTIVE DATE:** December 30, 2002, unless a later date is cited at the end of a section.  
[18.3.1.5 NMAC - Rp, SCC Rule 201.03, 12-30-02]

**18.3.1.6           OBJECTIVE:** The purpose of this rule is to set forth general provisions governing motor carriers in New Mexico.  
[18.3.1.6 NMAC - Rp, SCC Rule 201.02, 12-30-02; A, 1-1-05]

**18.3.1.7           DEFINITIONS:** In addition to the definitions in NMSA 1978 Sections 24-10B-3, 65-2A-3, and 65-6-2, as used in these rules:

**A.           ambulance services** means the scheduled or unscheduled compensated transportation over irregular routes of passengers in ambulances;

**B.           bingo bus service** means the scheduled or unscheduled compensated transportation of passengers in motor vehicles over regular or irregular routes to and from legal gambling establishments at rates that apply to each individual passenger;

**C.           cadaver** means a dead human body;

**D.           charter service** means the compensated transportation of a group of persons in a motor vehicle who, pursuant to a common purpose, under a single contract, at a fixed charge for the motor vehicle and driver, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin;

**E.           director** means the director of the transportation division of the New Mexico public regulation commission or his designee;

**F.           endorsement** means the document evidencing the amendment of a certificate or permit;

**G.           facilities** includes lands, buildings, and improvements to real property owned, leased, or used in the operations of a motor carrier;

**H.           FMCSA** means the federal motor carrier safety administration or any predecessor or successor agency;

**I.           hazardous matter** has the meanings given in 49 CFR Section 390.5 for the terms hazardous material, hazardous substance, and hazardous waste;

**J.           household goods carrier (HGC)** means a person who transports household goods;

**K.           inspection** means the examination by the commission, the motor transportation division, or other lawful entity of a motor carrier's operations, including the facilities and equipment used in connection with its operations, and all pertinent records;

**L.           limousine service** means the unscheduled compensated transportation over irregular routes of passengers in a chauffeur-driven luxury motor vehicle at the exclusive use of one individual or group at a fixed charge for the motor vehicle and chauffeur for a period of time that is not less than thirty (30) minutes by prearrangement and not by soliciting on the streets;

**M.           MTD** means the motor transportation division of the New Mexico department of public

safety;

**N. non-emergency medical transport service** means the unscheduled medically necessary transportation of passengers in a motor vehicle over irregular routes, to or from medical facilities only, at rates that apply to each individual passenger;

**O. on duty time** has the meaning given in 49 CFR Part 395.2;

**P. principal place of business** means the mailing address of the motor carrier and the street address and other physical locations of a motor carrier's business office and stationing points;

**Q. public liability insurance** means automobile bodily injury and property damage liability insurance;

**R. repossession service** means the compensated transportation of a motor vehicle lawfully seized without consent from the owner or operator;

**S. shared ride service** means the unscheduled compensated transportation of passengers to or from bus, train, or airport terminals over irregular routes in motor vehicles with a seating capacity of nine (9) or more persons at rates for each individual passenger that are generated from a grid-based zone rate structure;

**T. shuttle service** means the scheduled compensated transportation of passengers in motor vehicles over regular routes at rates that apply to each individual passenger;

**U. these rules** means the rules codified in Title 18, Chapter 3 of the New Mexico Administrative Code;

**V. tour and sightseeing service** means the scheduled or unscheduled guided compensated transportation of passengers over regular or irregular routes in motor vehicles to scenic points or other points of interest at rates that apply to each individual passenger;

**W. transfer of control** means a change in control of a motor carrier as control is defined in Paragraphs (1) through (5) of Subsection N of NMSA 1978 Section 65-2A-3;

**X. volunteer driver** means a person who drives for an ambulance or commuter service without remuneration; the provision of or reimbursement for training, equipment, uniforms, and supplies necessary to the performance of driving duties are incidental and do not constitute remuneration for purposes of these rules. [18.3.1.7 NMAC - Rp, SCC Rules 202.03 & 207.03, 12-30-02; A, 1-1-05]

#### **18.3.1.8 COMPLIANCE WITH THE LAW:**

**A.** A motor carrier must comply with these rules and all applicable state and federal laws and regulations. All operating authorities issued by the commission are subject to these rules as fully as if these rules were set forth verbatim in each operating authority.

**B.** In an emergency, a motor carrier may vary from a specific requirement of these rules when authorized by a law enforcement officer or public safety official. [18.3.1.8 NMAC - Rp, SCC Rule 231.01, 12-30-02]

#### **18.3.1.9 COMPLIANCE WITH TERMS OF OPERATING AUTHORITY AND TARIFFS:**

**A.** A motor carrier must comply with the terms and conditions of its operating authority.

**B.** A motor carrier of persons or household goods, and towing services performing nonconsensual tows, must comply with the terms and conditions of its tariffs approved by the commission.

**C.** If there is a conflict between the terms and conditions of an operating authority and the terms and conditions of an approved tariff, the operating authority will govern the specific conflict.

**D.** If there is a conflict between these rules and the terms and conditions of a tariff or operating authority approved by the commission, these rules will govern the specific conflict. [18.3.1.9 NMAC - Rp, SCC Rule 231.02, 12-30-02]

#### **18.3.1.10 WAIVER OF OR VARIANCE FROM RULE REQUIREMENTS:**

**A.** The commission may, in its discretion, waive or vary any requirement of these rules whenever the commission finds that such waiver or variance would be in the public interest.

**B.** A motor carrier that cannot meet one or more of the requirements of these rules may petition the commission for a waiver or variance. The petition shall be in writing and shall include:

(1) a list of those requirements which the motor carrier wishes to have waived or varied;

(2) an explanation and description of the specific conditions which prevent the requirement from being met; and,

(3) a statement of steps already taken and to be taken, with projected time limits for each step, in

attempting to meet the requirements.

**C.** The commission may order a hearing on the merits of the petition.

**D.** A motor carrier shall be required to comply with requirements it has petitioned to have waived or varied until the commission has issued an order on the merits of the petition, unless the commission or its designee grants an interim waiver of or variance from one of more of the requirements that are the subject of the petition.

**E.** No waiver or variance of any requirement of these rules granted by the commission is transferable.

[18.3.1.10 NMAC - Rp, SCC Rules 201.09 and 206.06, 12-30-02]

**18.3.1.11 FILING OF DOCUMENTS OTHER THAN APPLICATIONS:** In addition to the requirements stated here, particular rules may include other filing requirements.

**A. Address for filing documents.**

(1) Documents filed by mail must be sent to the New Mexico Public Regulation Commission, Docket Filing Unit, Transportation Division, P.O. Box 1269, Santa Fe, New Mexico 87504-1269.

(2) Documents filed in person must be delivered to the docket filing unit of the New Mexico public regulation commission, P.E.R.A. Building, Room 406, Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico.

**B. Filing by facsimile or electronic mail.** Persons may call the New Mexico public regulation commission docket filing unit at (505) 827-4526 to obtain the facsimile number or electronic mail address for filing documents. Persons filing documents by facsimile or electronic mail must also mail or deliver the original document to the commission. The document will be deemed filed on the date of receipt of the facsimile, the electronic mail, or the original, whichever occurs first. The commission will accept facsimile and electronic mail filings of:

- (1) appointments of a substitute agent for service of process;
- (2) change of address reports;
- (3) reports of fatal accidents;
- (4) complaints; and
- (5) other documents the commission or its designee in its discretion permits.

[18.3.1.11 NMAC - Rp, SCC Rule 206.01, 12-30-02; A, 1-1-05]

**18.3.1.12 INCOMPLETE FILINGS:**

**A.** A filing will be considered incomplete if:

- (1) it is unsigned;
- (2) it is unverified and verification is required;
- (3) it omits any information required by law or commission rule or order;
- (4) it is not submitted on a director-prescribed form and a form exists for that purpose;
- (5) the required fee is not submitted with the filing;
- (6) the commission determines the filing is otherwise insufficient.

**B.** The director shall return an incomplete filing with a statement indicating the nature of the insufficiency.

[18.3.1.12 NMAC - Rp, SCC Rule 206.02, 12-30-02]

**18.3.1.13 DIRECTOR-PRESCRIBED FORMS:**

**A. Use required.** The director has prescribed forms to carry out certain requirements of these rules. The most current version of a commission form must be used when a form exists for that purpose, unless these rules state otherwise or the commission waives this requirement. Where the commission has not prescribed a form, the motor carrier shall file the information and documents required by these rules in the order in which they are listed in these rules.

**B. How to obtain.** Copies of director-prescribed forms may be obtained from the director:

- (1) by writing to the New Mexico public regulation commission, transportation division, P.O. Box 1269, Santa Fe, New Mexico 87504-1269;
- (2) by calling the New Mexico public regulation commission, transportation division at 1-800-947-4722;

(3) on the commission's website at [www.nmprc.state.nm.us](http://www.nmprc.state.nm.us).

**C. Photocopies permitted.** The commission will accept filings made on photocopies of director-prescribed forms, provided they are legible.  
[18.3.1.13 NMAC - Rp, SCC Rule 203.01, 12-30-02]

**18.3.1.14 INSPECTION:**

**A. General authority.** NMSA 1978 Section 65-2A-4 authorizes the commission to inspect a motor carrier's operations. The commission shall provide a written inspection report to a motor carrier within thirty (30) days following a routine inspection containing feedback to the motor carrier and outlining necessary corrective or follow-up actions a motor carrier shall make.

**B. Inspection of cargo under seal.** NMSA 1978 Section 65-5-1 authorizes MTD enforcement employees to inspect cargo.

(1) If an MTD enforcement employee breaks a seal to inspect cargo, the MTD enforcement employee shall:

(a) reseal the load with a seal furnished by MTD; and

(b) give the driver a written acknowledgement, on a form prescribed by MTD, that the MTD enforcement employee broke the seal.

(2) No MTD enforcement employee shall break a U.S. government seal.

[18.3.1.14 NMAC - Rp, SCC Rules 272.01 and 272.03, 12-30-02; A, 1-1-05]

**18.3.1.15 INVESTIGATIONS:**

**A.** The commission or the director may initiate an investigation if an inspection reveals, or the commission or the director otherwise becomes aware of, facts indicating a possible violation of these rules. Upon completion of the investigation, the commission or the director may initiate any further appropriate action.

**B.** The commission may issue to any person it designates as an inspector or investigator credentials evidencing the person's authority and bearing the person's photograph.

[18.3.1.15 NMAC - Rp, SCC Rules 271.03 and 273.06, 12-30-02]

**18.3.1.16 TRANSPORTATION OF HAZARDOUS MATTER:** All motor carriers transporting hazardous matter in New Mexico shall comply with 18.2.3 NMAC, Motor Carrier Safety, promulgated by MTD.

[18.3.1.16 NMAC - Rp, SCC Rules 261.03 and 261.04, 12-30-02]

**18.3.1.17 DECEPTIVE ADVERTISING PROHIBITED:**

**A.** No motor carrier of persons or household goods, or towing service performing nonconsensual tows, shall make in any manner, orally or in writing, via any medium of advertisement or communication, a statement concerning any aspect of, or payment for, intrastate compensated transportation performed by the motor carrier that is false or misleading in part or in whole. A statement shall be deemed false or misleading if it omits any qualification imposed by these rules.

**B.** A motor carrier of persons or household goods, or towing service performing nonconsensual tows, shall be answerable for violations of this section by unauthorized persons or firms within the control of the motor carrier of persons or household goods, or towing service performing nonconsensual tows.

**C.** A motor carrier of persons or household goods, or towing service performing nonconsensual tows, shall advertise and solicit in the legal or "doing business as" name shown on its operating authority, but may advertise the name of an officially registered agent so long as the name of the motor carrier of persons or household goods, or towing service performing nonconsensual tows, is prominently displayed along with the agent's name.

[18.3.1.17 NMAC - Rp, SCC Rule 231.13, 12-30-02]

**18.3.1.18 RULES OF PROCEDURE:** In all matters before the commission involving motor carriers, the commission shall follow 18.1.2 NMAC, Transportation Division Procedures, and the Rules of Procedure of the New Mexico Public Regulation Commission. A specific provision in these rules shall control over a conflicting general provision in 18.1.2 NMAC, Transportation Division Procedures, or the Rules of Procedure.

[18.3.1.18 NMAC - Rp, SCC Rule 206.04, 12-30-02]

**18.3.1.19 REFERENCES TO OTHER DOCUMENTS:** Whenever a rule, tariff, or other document issued or approved by the commission relating to motor carriers refers to a federal or state statute, rule, regulation, tariff, or other document, the reference, unless specifically stated to the contrary, is continuous and intended to refer to the most current version of the document.  
[18.3.1.19 NMAC - N, 1-1-05]

#### **HISTORY OF 18.3.1 NMAC**

**Pre-NMAC history:** The material in this rule was previously filed with the State Records Center as:  
SCC 68-16, N.M. Motor Carrier Act, Rules and Regulations, effective Sept. 1, 1967, filed on 3-14-68;  
SCC 71-6, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1971, filed on 9-21-71;  
SCC 73-1, N.M. Motor Carrier Act, Rules and Regulations, on 6-14-73;  
SCC 74-1, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1973, filed on 2-5-74;  
SCC 75-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1975, filed on 4-17-75;  
SCC 75-3, N.M. Motor Carrier Act, Rules and Regulations (Rev.), effective Jan. 1, 1975, filed on 9-19-75;  
SCC 76-1, N.M. Motor Carrier Act, Rules and Regulations, effective April 1, 1976, filed on 4-15-76;  
SCC 77-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1977, filed on 1-25-77;  
SCCMC Rule No. 1, Rules of Procedure Governing Motor Carriers, filed on 3-5-82;  
SCCMC Rule No. 28, Complaints, filed on 3-5-82;  
SCCMC Rule No. 29, Inspector Authority, filed on 3-5-82;  
SCC Rule 201, Prefatory Rules, filed on 1-5-93;  
SCC Rule 202, Definitions, filed on 1-5-93;  
SCC Rule 203, Commission Forms, filed on 1-5-93;  
SCC Rule 206, Commission Procedures, filed on 1-5-93;  
SCC Rule 207, Emergency Rule Governing Motor Carriers of Property, filed on  
SCC Rule 231, General Compliance Requirements;  
SCC Rule 261, Motor Carriers of Property-General Provisions, filed on 1-5-93;  
SCC Rule 271, Enforcement-General Provisions, filed on 1-5-93;  
SCC Rule 272, Inspections;  
SCC Rule 273, Administrative Enforcement Proceedings, filed on 1-5-93.

#### **History of repealed material.**

SCC Rule 201, Prefatory Rules, filed on 1-5-93;  
SCC Rule 202, Definitions, filed on 1-5-93;  
SCC Rule 203, commission Forms, filed on 1-5-93;  
SCC Rule 206, Commission Procedures, filed on 1-5-93;  
SCC Rule 231, General Compliance Requirements;  
SCC Rule 261, Motor Carriers of Property-General Provisions, filed on 1-5-93;  
SCC Rule 271, Enforcement-General Provisions, filed on 1-5-93;  
SCC Rule 272, Inspections;  
SCC Rule 273, Administrative Enforcement Proceedings, filed on 1-5-93.



**TITLE 18       TRANSPORTATION AND HIGHWAYS**  
**CHAPTER 3     MOTOR CARRIER GENERAL PROVISIONS**  
**PART 2         OPERATING AUTHORITIES**

**18.3.2.1       ISSUING AGENCY:** New Mexico Public Regulation Commission.  
[18.3.2.1 NMAC - Rp, 18.3.2.1 NMAC, 1-1-05]

**18.3.2.2       SCOPE:** This rule applies to all persons operating as a motor carrier in New Mexico who are subject to the jurisdiction of the commission.  
[18.3.2.2 NMAC - Rp, 18.3.2.2 NMAC, 1-1-05]

**18.3.2.3       STATUTORY AUTHORITY:** NMSA 1978 Sections 8-8-4 and 65-2A-4.  
[18.3.2.3 NMAC - Rp, 18.3.2.3 NMAC, 1-1-05]

**18.3.2.4       DURATION:** Permanent.  
[18.3.2.4 NMAC - Rp, 18.3.2.4 NMAC, 1-1-05]

**18.3.2.5       EFFECTIVE DATE:** January 1, 2005, unless a later date is cited at the end of a section.  
[18.3.2.5 NMAC - Rp, 18.3.2.5 NMAC, 1-1-05]

**18.3.2.6       OBJECTIVE:** The purpose of this rule is to implement NMSA 1978 Sections 65-2A-5 through 65-2A-13.  
[18.3.2.6 NMAC - Rp, 18.3.2.6 NMAC, 1-1-05]

**18.3.2.7       DEFINITIONS:** See 18.3.1.7 NMAC.  
[18.3.2.7 NMAC - Rp, 18.3.2.7 NMAC, 1-1-05]

**18.3.2.8       OPERATING AUTHORITY REQUIRED:** No person shall provide any of the following compensated transportation services in New Mexico without having first obtained from the commission the operating authority required for the particular type of service to be rendered. The director shall determine which type of operating authority is appropriate based on the attributes of the type of service the applicant proposes to provide. The commission may at any time determine whether an operating authority is appropriate for the type of service a motor carrier is providing.

- A. A warrant is required for:
  - (1) charter services;
  - (2) towing services;
  - (3) repossession services using towing equipment;
  - (4) commuter services; or
  - (5) transportation of property, except that a person licensed pursuant to the Thanatopractice Act, NMSA 1978 Section 61-32-1 et seq. is not required to obtain a warrant for the transportation of cadavers.
- B. A single trip ticket is required when a motor vehicle regularly used to convey children to and from school or school activities is used for a trip sponsored by a charitable organization.
- C. A certificate or permit is required for:
  - (1) taxicab services;
  - (2) limousine services;
  - (3) terminal shuttle services;
  - (4) shared-ride services;
  - (5) tour and sightseeing services;
  - (6) bingo bus services;
  - (7) non-emergency medical transportation services;
  - (8) shuttle services;
  - (9) ambulance services; or
  - (10) transportation of household goods.

**18.3.2.9 LIMITATIONS ON PASSENGER SERVICES:**

- A. Bingo bus services.** A bingo bus service:
- (1) may not provide charter service, commuter service, limousine service, non-emergency medical transport service, shared ride service, shuttle service, tour and sightseeing service, taxicab service, or terminal shuttle service;
  - (2) may use chauffeur-driven luxury motor vehicles to provide bingo bus service.
- B. Charter services.** A charter service:
- (1) may not hold itself out as a bingo bus service, commuter service, limousine service, non-emergency medical transport service, shared ride service, shuttle service, tour and sightseeing service, taxicab service, or terminal shuttle service;
  - (2) may not provide bingo bus service, commuter service, limousine service, non-emergency medical transport service, shared ride service, shuttle service, tour and sightseeing service, taxicab service, or terminal shuttle service;
  - (3) may not use the terms bingo bus service, commuter service, limousine service, non-emergency medical transport service, shared ride service, shuttle service, tour and sightseeing service, taxicab service, or terminal shuttle service in its business name, markings on motor vehicles, or advertising;
  - (4) may only provide round-trip transportation of passengers;
  - (5) may not charge rates that apply to each individual passenger;
  - (6) may not use chauffeur-driven luxury motor vehicles to provide charter services, except when providing charter service pursuant to contracts with government agencies;
  - (7) may not solicit business on the streets;
  - (8) shall enter into a single prearranged written contract for charter services; such contract shall not be arranged, accepted, entered into or paid for with or through the driver of the motor vehicle;
  - (9) may only provide charter service to a group of persons (two or more).
- C. Commuter service.** A commuter service:
- (1) may not provide bingo bus service, charter service, limousine service, non-emergency medical transport service, shared ride service, shuttle service, tour and sightseeing service, taxicab service, or terminal shuttle service;
  - (2) may not use chauffeur-driven luxury motor vehicles to provide commuter service.
- D. Limousine service.** A limousine service:
- (1) may not provide bingo bus service, charter service, commuter service, non-emergency medical transport service, shared ride service, shuttle service, tour and sightseeing service, taxicab service, or terminal shuttle service;
  - (2) may not charge rates that apply to each individual passenger;
  - (3) may not solicit business on the streets;
  - (4) shall enter into a contract for limousine service in advance of providing the service; such contract shall not be arranged, accepted, or entered into with or through the driver of the motor vehicle.
- E. Non-emergency medical transport service.** A non-emergency medical transport service may not provide bingo bus service, charter service, commuter service, limousine service, non-emergency medical transport service, shared ride service, shuttle service, tour and sightseeing service, taxicab service, or terminal shuttle service.
- F. Shared-ride service.** A shared ride service:
- (1) may not provide bingo bus service, charter service, commuter service, limousine service, non-emergency medical transport service, shuttle service, tour and sightseeing service, taxicab service, or terminal shuttle service;
  - (2) may solicit business on the streets or may prearrange to provide service;
  - (3) may not use chauffeur-driven luxury motor vehicles to provide shared ride service.
- G. Shuttle service.** A shuttle service:
- (1) may not provide bingo bus service, charter service, commuter service, limousine service, non-emergency medical transport service, shared ride service, tour and sightseeing service, taxicab service, or terminal shuttle service;
  - (2) may solicit business at scheduled stops on its regular route or may prearrange to provide

service;

- (3) may use chauffeur-driven luxury motor vehicles to provide shuttle service;
- (4) may not deviate from its regular route.

**H. Taxicab service.** A taxicab service:

(1) may not provide bingo bus service, charter service, commuter service, limousine service, non-emergency medical transport service, shared ride service, shuttle service, tour and sightseeing service, or terminal shuttle service;

(2) shall charge rates based on one charge for the first person and an additional small fixed charge for each additional person;

- (3) shall grant exclusive direction to the first person engaging the taxicab service;
- (4) may provide one-way transportation of passengers;
- (5) may solicit business on the streets or may prearrange to provide service;
- (6) may not use chauffeur-driven luxury motor vehicles to provide taxicab service.

**I. Terminal shuttle service.** A terminal shuttle service:

(1) may not provide bingo bus service, charter service, commuter service, limousine service, non-emergency medical transport service, shared ride service, shuttle service, tour and sightseeing service, taxicab service, or terminal shuttle service;

(2) shall charge rates that apply to each individual passenger;

(3) may use chauffeur-driven luxury motor vehicles to provide terminal shuttle service.

**J. Tour and sightseeing service.** A tour and sightseeing service:

(1) may not provide bingo bus service, charter service, commuter service, limousine service, non-emergency medical transport service, shared ride, shuttle service, taxicab service, or terminal shuttle service;

(2) may use chauffeur-driven luxury motor vehicles to provide tour and sightseeing service.

[18.3.2.9 NMAC - N, 1-1-05]

**18.3.2.10 FILING OF APPLICATIONS:**

**A. By mail.** Applications filed by mail must be sent to the New Mexico Public Regulation Commission, Transportation Division, Applications Bureau, P.O. Box 1269, Santa Fe, New Mexico 87504-1269.

**B. In person.** Applications filed in person must be delivered to the applications bureau of the transportation division of the New Mexico public regulation commission, Room 409, P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico.

**C. By facsimile.** Persons wishing to file an application for pre-filing review by facsimile may call the New Mexico public regulation commission, transportation division, applications bureau at (505) 827-4289 to obtain the facsimile number.

[18.3.2.10 NMAC - N, 1-1-05]

**18.3.2.11 CONTENTS OF APPLICATIONS FOR A WARRANT:** An applicant for a warrant shall file with the commission an application containing the following information and documents:

**A.** the applicant's name;

**B.** the applicant's d/b/a name, if applicable;

**C.** the applicant's principal place of business;

**D.** the applicant's business telephone number;

**E.** the applicant's electronic mail address, if applicable;

**F.** the applicant's tax identification number obtained from the New Mexico taxation and revenue department, or the applicant's social security number;

**G.** if the applicant is a corporation, evidence that the applicant is authorized by the corporations bureau of the commission to do business in New Mexico and that it is in good corporate standing in New Mexico;

**H.** if the applicant is other than a corporation, a description of the form of ownership, the names and addresses of all principal owners and managers, and the date the business entity was created;

**I.** if the applicant is a commuter service, a description of the area to be served;

**J.** if the applicant is a towing service providing non-consensual tows, a proposed tariff meeting

the requirements of 18.3.6 NMAC, Tariffs;

- K.** an appointment of an agent for service of process;
- L.** a list of all equipment to be used by the applicant, including all equipment leases filed with and approved by the commission in accordance with these rules;
- M.** for each piece of equipment, an annual inspection form completed by a qualified inspector within the preceding twelve (12) months that shows that each motor vehicle proposed to be operated by the applicant meets the safety requirements of the federal motor carrier safety regulations;
- N.** a list of drivers and drivers license information for each driver including state of issuance, license number, and class of license;
- O.** the applicant's written statement certifying that all drivers meet the driver qualifications of 18.3.4 NMAC, Safety Requirements, and that the applicant will maintain driver qualification files on each driver;
- P.** the applicant's U.S. DOT safety rating, if it has one;
- Q.** proof of public liability insurance in accordance with 18.3.3 NMAC, Financial Responsibility, and the insurance filing fee;
- R.** a copy of either a certificate of workers' compensation insurance or a certificate of exemption from the workers' compensation administration; (commuter services shall not be required to file a certificate for volunteer drivers but shall file the appropriate certificate for drivers who are employees.)
- S.** the applicant's written statement certifying that it has developed a drug and alcohol testing program that will meet the requirements of 49 CFR Parts 40 and 382; or, if the applicant is a commuter van pool, a certification that it has a program providing for an initial drug test for anyone seeking to be a commuter service driver;
- T.** a copy of the applicant's written preventive maintenance program for its motor vehicles as required by 18.3.5.11 NMAC;
- U.** a contact person and telephone number for the commission to call in the event of a complaint.
- V.** the notarized oath of the applicant attesting that all statements in the application are true and correct; and
- W.** the application fee required by NMSA 1978 Section 65-2A-36.

[18.3.2.11 NMAC - Rp, 18.3.2.9 NMAC, 1-1-05]

**18.3.2.12 CONTENTS OF APPLICATIONS FOR A SINGLE TRIP TICKET:** An applicant for a single trip ticket shall file with the commission an application containing the following information and documents:

- A.** the applicant's name, address, and telephone number;
- B.** the applicant's electronic mail address, if applicable;
- C.** the time, purpose, origin, and destination of the trip;
- D.** the name, address, purpose, and status of the charitable organization sponsoring the trip, and the name and telephone number of a contact person for the charitable organization;
- E.** affidavits stating that no certificated or permitted common or contract motor carrier service is available for the trip described in the application;
- F.** proof that the motor vehicle to be used for the trip meets the safety requirements prescribed by the Motor Carrier Act and the commission's rules;
- G.** the applicant's tax identification number obtained from the New Mexico taxation and revenue department, or the applicant's social security number;
- H.** an annual vehicle inspection conducted by a qualified inspector within the preceding twelve (12) months that shows that the motor vehicle proposed to be used for the trip meets the safety requirements of the federal motor carrier safety regulations;
- I.** the name and driver's license information for the driver including state of issuance, license number, and class of license;
- J.** the applicant's written statement certifying that the driver meets the driver qualifications of 18.3.4 NMAC, Safety Requirements, and that the applicant maintains a driver qualification files on the driver;
- K.** the applicant's U.S. DOT safety rating, if it has one;
- L.** proof of public liability insurance in accordance with 18.3.3 NMAC, Financial Responsibility;

- M.** a contact person and telephone number for the commission to call in the event of a complaint;
  - N.** the notarized oath of the applicant attesting that all statements in the application are true and correct; and
  - O.** the application fee required by NMSA 1978 Section 65-2A-36.
- [18.3.2.12 NMAC - Rp, 18.3.2.10 NMAC, 1-1-05]

**18.3.2.13 REVIEW OF APPLICATIONS FOR WARRANTS AND SINGLE TRIP TICKETS:**

**A. Filing requirements.**

(1) **Application required.** Applications for a warrant or single trip ticket must be typed or completed in ink on forms prescribed by the director.

(2) **Number of copies.**

(a) **Warrants.** Applicants for a warrant must file an original application form and every required document as provided in Subsection A or B of 18.3.2.9 NMAC. If the applicant wishes to have a file stamped copy of the complete application returned to it, it must submit an additional copy of the application form and each document.

(b) **Single trip tickets.** Applicants for a single trip ticket shall file an original and one (1) copy of the application form and every required document.

(3) **Filing fee.** Applicants shall submit the appropriate application fee with the application in the form of a check or money order made payable to the New Mexico public regulation commission.

**B. Review by the director.** Within seven (7) days of receipt of an application, the director will review the application to determine whether it is complete.

**C. Incomplete applications.**

(1) If the application is incomplete, the director will, within three (3) days of determining the application is incomplete, return the application to the applicant along with an initial letter outlining the deficiencies in the application. The applicant will have twenty (20) days from the date of the initial letter to cure the deficiencies and return the completed application to the applications bureau. To expedite the process, the director may contact the applicant by telephone, electronic mail, or facsimile to obtain the missing information or documents.

(2) If the applicant returns the application to the commission but the application is still deficient, the director will, within ten (10) days, return the application to the applicant along with a second letter outlining the deficiencies in the application. The applicant will have twenty (20) days from the date of the second letter to cure the deficiencies and return the completed application to the applications bureau.

(3) If the returned application cures the deficiencies, the director will certify the application as complete pursuant to Subsection C of this section.

(4) If the applicant fails to return the application to the commission within sixty (60) days from the date the application was filed, or the director determines the application is still incomplete, the application shall be deemed abandoned, the file will be closed, and all fees paid will be forfeited to the state. The director will send a letter notifying the applicant that the application has been deemed abandoned, the file has been closed, and all fees paid have been forfeited to the state.

**D. Complete applications.** If the application contains all of the information and documents required by 18.3.2.11 or 18.3.2.12 NMAC, and is in compliance with all other statutory requirements and these rules, the director shall certify in writing that the application satisfies the sixty (60) day completeness requirement of Subsection E of NMSA 1978 Section 65-2A-36 and shall approve the application for the warrant or single trip ticket.

**E. Docketing.**

(1) **Warrants.** Upon receipt of a complete application, all required documents, and the filing fee, the applications bureau shall issue a docket number and file the application with the docket filing unit of the commission.

(2) **Single trip tickets.** No docket number will be issued for single trip tickets.

**F. Issuance of warrant or single trip ticket.**

(1) The director will issue a warrant or single trip ticket within five (5) business days after the date the director approves the application. Issuance of the warrant closes the docket.

(2) The director will issue a warrant or single trip ticket in the name of the person owning the motor carrier, if the motor carrier is a sole proprietorship; in the name of the partners, if the motor carrier is a partnership; in the name of the limited liability company if the motor carrier is a limited liability company; and

in the name of the corporation, if the motor carrier is a corporation. No warrant or single trip ticket will be issued only in a "doing business as" name.

[18.3.2.13 NMAC - Rp, 18.3.2.11 NMAC, 1-1-05]

**18.3.2.14 TERMS AND CONDITIONS OF WARRANTS OR SINGLE TRIP TICKETS:**

**A. Proof of operating authority.** A copy of the warrant or single trip ticket shall be carried in each motor vehicle operated by the motor carrier or commuter service.

**B. Term.** A warrant shall remain in force until suspended or revoked by the commission or until surrendered by the person holding it. A single trip ticket shall be valid only for the duration of the trip.

**C. Changes prohibited.** A warrant or single trip ticket may not be leased, transferred, assigned or voluntarily suspended.

[18.3.2.14 NMAC - Rp, 18.3.2.12 NMAC, 1-1-05]

**18.3.2.15 CONTENTS OF APPLICATIONS FOR AN ORIGINAL CERTIFICATE OR PERMIT:**

**A. For all certificates and permits.** An applicant for a certificate or permit shall file with the commission an application containing the following information and documents:

- (1) the applicant's name;
- (2) the applicant's d/b/a name, if applicable;
- (3) the applicant's mailing address;
- (4) the applicant's electronic mail address, if applicable;
- (5) the applicant's tax identification number obtained from the New Mexico taxation and revenue department, or the applicant's social security number;
- (6) if the applicant is a corporation:
  - (a) evidence that the applicant is authorized by the corporations bureau of the commission to do business in New Mexico and that it is in good corporate standing in New Mexico; and
  - (b) the names and addresses of any shareholders who own ten percent or more of the voting stock of the corporation;
- (7) if the applicant is other than a corporation, a description of the form of ownership, the names and addresses of all principal owners and managers, the percentage of ownership interest of each, and the date the business entity was created;
- (8) appointment of an agent for service of process;
- (9) an income statement for the latest fiscal year if available;
- (10) a current balance sheet;
- (11) affidavits or other evidence upon which the applicant intends to rely to show that the proposed service is or will be required by the public convenience and necessity;
- (12) affidavits or other evidence upon which the applicant intends to rely to show that the applicant is fit, willing and able;
- (13) a statement of the type of service the applicant intends to operate and a description of the territory it proposes to serve;
- (14) the application fee required by NMSA 1978 Section 65-2A-36;
- (15) a proposed tariff meeting the requirements of 18.3.6 NMAC, Tariffs;
- (16) a proposed general schedule if the applicant will provide scheduled service; and
- (17) the notarized oath of the applicant attesting that all statements in the application are true and correct.

**B. Additional requirements for permits.** An applicant for a permit shall also file with the commission:

- (1) a copy of each contract under which the applicant intends to operate; and
- (2) a statement indicating:
  - (a) the effect that denying the permit would have on the applicant and its customers; and
  - (b) the changing character of the requirements of those customers.

**C. Additional requirements for ambulance services.** An applicant for a certificate or a permit as an ambulance service shall also:

- (1) submit an operations plan in accordance with 18.3.14.10 NMAC; and

(2) identify fixed stationing points for all ambulances used within a service's territory or patient catchment area.  
[18.3.2.15 NMAC - Rp, 18.3.2.13 NMAC, 1-1-05]

**18.3.2.16 REVIEW OF APPLICATIONS FOR CERTIFICATES OR PERMITS:**

**A. Pre-filing review.** An applicant shall present a single copy of its proposed application for a certificate or permit to the director for pre-filing review. Within seven (7) days of receipt of such application, the director will review the application to determine if it is complete.

**B. Complete applications.** If the application contains all of the information and documents required by the section specified below for each particular type of application, and is in compliance with all other statutory requirements and these rules, the director shall certify in writing that the application satisfies the sixty (60) day completeness requirement of Subsection E of NMSA 1978 Section 65-2A-36 and notify the applicant that the application is complete. The director's determination of completeness shall not constitute approval of the application. Upon receipt of notice that the application is complete, the applicant shall file its application in accordance with Subsection D of this section.

- (1) For an original certificate or permit, 18.3.2.15 NMAC;
- (2) For a change in a tariff, 18.3.6.14 NMAC;
- (3) For amendment of a certificate or permit, 18.3.8.9 NMAC;
- (4) For lease of a certificate or permit, 18.3.8.10 NMAC;
- (5) For voluntary transfer of a certificate or permit, 18.3.8.11 NMAC;
- (6) For transfer by operation of law of a certificate or permit, 18.3.8.12 NMAC;
- (7) For reinstatement of a certificate or permit following involuntary suspension, 18.3.8.13

NMAC;

- (8) For a change in the form of ownership of a certificate or permit, 18.3.8.14 NMAC;
- (9) For transfer of control of a motor carrier, 18.3.8.15 NMAC;
- (10) For cancellation of a certificate or permit, 18.3.8.16 NMAC;
- (11) For voluntary suspension of a certificate or permit, 18.3.8.17 NMAC;
- (12) For reinstatement of a certificate or permit following voluntary suspension, 18.3.8.18

NMAC;

- (13) For leasing equipment, Subsection A of 18.3.9.8 NMAC.

**C. Incomplete applications.**

(1) If the application is incomplete, the director will, within three (3) days of determining the application is incomplete, return the application to the applicant along with an initial letter outlining the deficiencies in the application. The applicant will have twenty (20) days from the date of the initial letter to cure the deficiencies and return the completed application to the applications bureau. To expedite the process, the director may contact the applicant by telephone, electronic mail, or facsimile to obtain the missing information or documents.

(2) If the applicant returns the application to the commission but the application is still deficient, the director will, within ten (10) days, return the application to the applicant along with a second letter outlining the deficiencies in the application. The applicant will have twenty (20) days from the date of the second letter to cure the deficiencies and return the completed application to the applications bureau.

(3) If the returned application cures the deficiencies, the director will certify the application as complete pursuant to Subsection B of this section.

(4) If the applicant fails to return the application to the commission within sixty (60) days from the date the application was pre-filed, or the director determines the application is still incomplete, the application shall be deemed abandoned. The director will send a letter notifying the applicant that the application has been deemed abandoned and the file has been closed.

**D. Filing requirements.**

(1) **Application required.** Applications must be typed or completed in ink on forms prescribed by the director.

(2) **Number of copies.** Applicants must file an original and three (3) copies of the application form and every required document as provided in Subsection A or B of 18.3.2.10 NMAC. If the applicant wishes to have a file-stamped copy of the complete application returned to it, it must submit an additional copy of each application form and document.

- (3) **Filing fee.** Applicants shall submit the appropriate application fee with the application in the

form of a check or money order made payable to the New Mexico public regulation commission.

**E. Docketing.** The applications bureau shall issue a docket number upon receipt of the complete application, all required documents, and the filing fee and shall file the application with the docket filing unit of the commission.

**F. Procedure.** The commission shall review complete applications for a certificate or permit in accordance with 18.3.2.17 through 18.3.2.20 NMAC.  
[18.3.2.16 NMAC - Rp, 18.3.2.16 NMAC, 1-1-05]

#### **18.3.2.17 NOTICE:**

**A.** The director shall prepare a notice of application within five (5) business days of the date the director certifies that an application is complete. If the application is accompanied by an application for temporary authority, the notice shall so state and shall indicate whether the application for temporary authority is pending or has been granted.

**B.** An applicant shall, at its own expense, publish the notice of application and, if applicable, grant of temporary authority once in a newspaper of general circulation in the area to be served within five (5) business days of receipt of the notice prepared by the director.

**C.** An applicant shall request from the director a list of all motor carriers holding the kind of operating authority the applicant has or is seeking and all other interested parties. An applicant shall mail a copy of the notice of application and, if applicable, grant of temporary authority to all persons on the list within five (5) business days of receipt of the notice prepared by the director. Mailing of such notice by first class U.S. mail to the last known business address of a motor carrier shall constitute service under this rule.

**D.** An applicant shall file an affidavit of publication and a certificate of mailing with the docket filing unit. Instead of the affidavit of publication, an applicant may file the page from the newspaper showing the notice of application and, if applicable, grant of temporary authority, the name of the newspaper, and the date of its publication. The commission will not act on an application, except to dismiss it for good cause, until it has received the affidavit of publication or newspaper page and the certificate of mailing.

**E.** There shall be a minimum twenty (20) calendar day notice period before the commission may act on an application; the notice period shall start on the later of the date of publication of the notice in a newspaper of general circulation or three (3) days after the date notice was mailed to the persons on the list supplied by the director.

[18.3.2.17 NMAC - Rp, 18.3.2.17 NMAC, 1-1-05]

#### **18.3.2.18 CONTESTED APPLICATIONS:**

**A.** If the director requests a hearing, or a member of the public or industry files a motion to intervene in an application for operating authority or a grant of temporary authority at any time during the notice period, the commission shall appoint a hearing examiner. The motion to intervene shall state the movant's interest in the proceeding, specifically allege that the applicant for operating authority or grantee of temporary authority does not meet one or more of the criteria for issuance of the operating authority or temporary authority, and describe in sufficient detail the facts known to the movant supporting the allegation.

**B.** The hearing examiner shall, within ten (10) days of appointment, issue a notice of hearing setting a hearing to be held within sixty (60) days from the date of appointment. The hearing examiner may for good cause extend the time within which a hearing must be held.

**C.** If the commission or hearing examiner denies all motions to intervene or all intervenors withdraw at any time, and staff and the commission or hearing examiner do not object, the commission or hearing examiner shall recommend to the commission that the application be reassigned to staff and processed as an uncontested application.

**D.** The applicant has the burden of proof and shall present testimony and evidence justifying: issuance of an original certificate or permit and the justness and reasonableness of the accompanying proposed tariff; approval of the proposed change in tariff; approval of the proposed amendment, lease, transfer, or reinstatement following involuntary suspension of an existing certificate or permit; or approval of a proposed equipment lease; as appropriate. Contesting parties shall be allowed an opportunity to present evidence regarding the application. The hearing examiner may require pre-filed testimony.

**E.** The hearing examiner shall issue a recommended decision within forty-five (45) days of receipt of the transcript of hearing, or completion of the briefing schedule, whichever is later. The hearing examiner may for good cause extend the time within which a recommended decision must be issued.



[18.3.2.18 NMAC - Rp, 18.3.2.1 NMAC, 1-1-05]

**18.3.2.19 UNCONTESTED APPLICATIONS:** If the director does not request a hearing, and no person files a motion to intervene in the application during the notice period, and the director finds that the applicant has met the statutory requirements specified below for each particular type of application, the director shall prepare, within five (5) business days of the end of the notice period, a proposed order conditionally approving the application:

- A. for an original certificate as a motor carrier of persons, NMSA 1978 Section 65-2A-8;
- B. for an original certificate as a motor carrier of household goods, NMSA 1978 Section 65-2A-9;
- C. for an original permit, NMSA 1978 Section 65-2A-10
- D. for temporary authority, NMSA 1978 Section 65-2A-11;
- E. for reinstatement of a certificate or permit following involuntary suspension, NMSA 1978 Section 65-2A-27;
- F. for an original tariff or common tariff, NMSA 1978 Sections 65-2A-20 and 65-2A-21, and, if applicable, 65-2A-22 and 65-2A-23;
- G. for a change in a tariff or common tariff, transfer of control of a motor carrier, reinstatement of a certificate or permit following voluntary suspension, or for amendment, lease, transfer, cancellation, change in form of ownership, or voluntary suspension of a certificate or permit, NMSA 1978 Section 65-2A-14; and
- H. for lease of equipment, NMSA 1978 Section 65-2A-24.

[18.3.2.19 NMAC - Rp, 18.3.2.19 NMAC, 1-1-05]

**18.3.2.20 CONDITIONAL APPROVAL OF A CERTIFICATE OR PERMIT:** If the commission finds that the applicant for a certificate as a motor carrier of persons has met the statutory requirements in NMSA 1978 Section 65-2A-8, or that the applicant for a certificate as a motor carrier of household goods has met the statutory requirements in NMSA 1978 Section 65-2A-9, or that the applicant for a permit has met the statutory requirements in NMSA 1978 Section 65-2A-10, the commission shall issue an order conditionally approving the application. Then, unless the commission prescribes a different period, the applicant must, within ninety (90) days from the date of the order, comply with the qualifying provisions set forth in 18.3.2.21 NMAC and with any other qualifying provisions, terms, conditions, or limitations set forth by the commission in its order. If the applicant fails to timely comply with all qualifying provisions, the commission may dismiss the case without prejudice and close the docket.

[18.3.2.20 NMAC - Rp, 18.3.2.20 NMAC, 1-1-05]

**18.3.2.21 QUALIFYING PROVISIONS:** Upon conditional approval of its application, an applicant shall submit the following information and documents:

- A. the applicant's principal place of business;
- B. the applicant's business telephone number;
- C. a list of all equipment to be used by the applicant, including all equipment leases filed with and approved by the commission in accordance with these rules;
- D. for each piece of equipment, an annual inspection form completed by a qualified inspector within the preceding twelve (12) months that shows that each motor vehicle proposed to be operated by the applicant meets the safety requirements of the federal motor carrier safety regulations;
- E. a list of drivers and drivers license information for each driver including state of issuance, license number and class of license;
- F. the applicant's written statement certifying that all drivers meet the driver qualifications of the 18.3.4 NMAC, Safety Requirements, and that the applicant will maintain driver qualification files on each driver;
- G. the applicant's U.S. DOT safety rating, if it has one;
- H. proof of public liability insurance in accordance with 18.3.3 NMAC, Financial Responsibility, and the insurance filing fee;
- I. a copy of either a certificate of workers' compensation insurance or a certificate of exemption from the Workers' Compensation Administration;
- J. the applicant's written statement certifying that the motor carrier has developed a drug and

alcohol testing program that will meet the requirements of 49 CFR Section 382 and Part 40;

**K.** a copy of the applicant's written preventive maintenance program for its motor vehicles as required by 18.3.5.12 NMAC;

**L.** a proposed specific schedule of service meeting the requirements of subsection A of 18.3.6.15 NMAC if the applicant will provide scheduled service; and

**M.** if the application is for transfer or cancellation of a certificate or permit, the original certificate or permit and all endorsements to it.

[18.3.2.21 NMAC - Rp, 18.3.2.21 NMAC, 1-1-05]

**18.3.2.22 ISSUANCE OF A CERTIFICATE OR PERMIT:**

**A.** Within five (5) business days after the date the director certifies that the applicant has complied with all qualifying provisions, the commission shall adopt the final order approving the application. The director will then sign and issue a certificate or permit.

**B.** The commission will issue the certificate or permit in the name of the person owning the motor carrier, if the motor carrier is a sole proprietorship; in the name of the partners, if the motor carrier is a partnership; in the name of the limited liability company if the motor carrier is a limited liability company; and in the name of the corporation, if the motor carrier is a corporation. No certificate or permit will be issued only in a "doing business as" name.

**C.** In addition to the requirements in Subsection D of NMSA 1978 Section 65-2A-8, a certificate or permit issued to an ambulance service shall specify:

(1) the patient catchment area to be served, if different from the territory to be served; and

(2) the level of EMS service to be provided.

**D.** Certificates issued to ambulance services shall be valid for the time period prescribed in NMSA 1978 Section 65-6-5.

[18.3.2.22 NMAC - Rp, 18.3.2.20 and 18.4.2.57 NMAC, 1-1-05]

**18.3.2.23 TERMS AND CONDITIONS OF CERTIFICATES AND PERMITS:** The requirements of this section are in addition to the requirements in the Motor Carrier Act, NMSA 1978 chapter 65, article 2A.

**A. Operation to begin within thirty days.** A motor carrier must actually begin authorized operations within thirty (30) days from the date its certificate or permit was issued. Failure to begin operations within thirty (30) days shall create a presumption that the applicant has refused to render continuous and adequate service.

**B. Posting of operating authority.** Every motor carrier of persons shall post, in a conspicuous place visible to the public, in each of its motor vehicles and at the motor carrier's principal place of business, a notice containing a statement in substantially the following form: "This motor carrier operates pursuant to NMPRC Operating Authority No. \_\_\_\_\_, issued by the New Mexico Public Regulation Commission, and the tariff approved by the commission. If you have any questions or problems with the service provided by this company, you may contact the management at [insert phone number], and if the problem is not resolved, you may contact the New Mexico Public Regulation Commission, Transportation Division, P.O. Box 1269, Santa Fe, New Mexico 87504-1269, 1-800-947-4722."

[18.3.2.23 NMAC - Rp, 18.3.2.22 NMAC, 1-1-05]

**18.3.2.24 REQUIREMENTS APPLICABLE TO ALL MOTOR CARRIERS OF PERSONS:**

**A. Safe and adequate service, equipment, and facilities.** All motor carriers of persons must provide safe and adequate service, equipment, and facilities for the provision of transportation services.

**B. Condition of vehicles.** A motor carrier of persons shall use motor vehicles that are safe, dependable, and suitable for the service rendered. A motor carrier of persons shall maintain each motor vehicle in good mechanical and operating condition. No motor carrier of persons shall operate, or require or permit to be operated, a motor vehicle with any defect or deficiency capable of causing an accident or the mechanical breakdown of the motor vehicle.

**C. Heating and ventilation system.** A motor carrier of persons shall ensure that every motor vehicle it operates is equipped with a heating system capable of providing a reasonable level of comfort inside the motor vehicle, and shall have ventilation adequate to prevent the escape of engine fumes into the interior of the motor vehicle.

**D. Transportation of property limited.** No motor carrier of persons may transport any

property, including parcel freight, cargo or baggage, in any quantity or manner that interferes with the comfort or safety of passengers. Any property carried within the passenger compartment must be secured to prevent the property from obscuring the vision of the driver or endangering the passengers.

**E. Use of highways.** A motor carrier may use only those highways that are authorized by its operating authority but may deviate from its authorized routes where the condition of the highway or street necessitates a detour.

**F. Businesslike operations.** All motor carriers of persons shall conduct their operations in a businesslike, ethical and courteous manner.

[18.3.2.24 NMAC - Rp, 18.3.2.23 NMAC, 1-1-05]

### **18.3.2.25 REQUIREMENTS APPLICABLE TO ALL MOTOR CARRIERS OF PERSONS EXCEPT AMBULANCE SERVICES:**

**A. Rates to be posted in vehicles.** A motor carrier of persons shall post the rates for transportation services in the passenger compartment of the vehicle in a place and manner that is readily accessible and viewable by passengers.

**B. Seat belts.** A motor carrier of persons shall ensure that each motor vehicle it uses that is capable of transporting fifteen or fewer persons is equipped with a separate seat belt assembly for each passenger.

**C. Child restraints.** A motor carrier of persons except commuter services shall ensure that each motor vehicle it uses that is capable of transporting fifteen or fewer persons complies with all federal and state requirements regarding child restraint systems.

**D. Cleaning.** A motor carrier of persons shall ensure that the interior and exterior of every motor vehicle it operates is cleaned routinely to keep the motor vehicle free of dirt and debris.

**E. Transportation of hazardous matter.** No motor carrier of persons shall transport hazardous matter (including but not limited to explosives, acids, flammable liquids), loaded guns or other deadly weapons, or other dangerous articles of property.

[18.3.2.25 NMAC - N, 1-1-05]

### **18.3.2.26 REQUIREMENTS APPLICABLE TO ALL MOTOR CARRIERS OF PERSONS EXCEPT AMBULANCE, CHARTER, AND COMMUTER SERVICES:**

**A. Stations.** A motor carrier of persons shall ensure that any station it operates is of adequate size and contains those facilities reasonably needed by the traveling public. A motor carrier of persons shall ensure that its stations are maintained in a clean and sanitary condition, adequately lighted, heated and ventilated during hours of use, and contain adequate restroom facilities. A motor carrier of persons shall make reasonable efforts to keep the station area safe for the public.

**B. Routing of passengers.** Unless expressly requested otherwise, a motor carrier of persons shall ticket all passengers over the shortest available route and for the earliest scheduled arrival.

**C. Rest stops.** A motor carrier of persons shall require its drivers to announce all scheduled rest stops immediately before leaving any station and the location of the restroom facilities upon arriving at a rest stop.

[18.3.2.26 NMAC - Rp, 18.3.2.24 NMAC, 1-1-05]

### **18.3.2.27 ADDITIONAL REQUIREMENTS FOR MOTOR CARRIERS OF PERSONS PROVIDING SCHEDULED SERVICE EXCEPT COMMUTER SERVICES:**

**A. Posting of schedules.** A motor carrier of persons shall post in a conspicuous place, readily available for public inspection, at each station or place where passengers are regularly received or discharged, at least one copy of its current schedule of arrivals and departures.

**B. Compliance with time schedules required.**

(1) A motor carrier of persons authorized to provide scheduled service must operate the service on each day as scheduled.

(2) A motor carrier of persons shall comply with all time schedules throughout its routes.

(3) A shuttle service picking up passengers at a transportation hub facility may delay its departure from the transportation hub facility when reserved passengers are delayed as a result of another carrier's late arrival or delayed baggage handling, provided that:

(a) if the particular vehicle has no loaded passengers at the particular time and has no

other pickup points on its route, the shuttle service may delay its departure for any reasonable period of time for late arriving reserved passengers.

(b) if the particular vehicle has other passengers loaded, but has no other pickup points on its route, the shuttle service may delay its departure up to fifteen (15) minutes past its scheduled departure time.

**C. Reserve equipment.** Every motor carrier of persons must keep sufficient equipment on reserve to assure reasonable compliance with approved time schedules.

**D. Interruption of service.** Each motor carrier of persons shall promptly report in writing to the commission any interruption in service which is likely to continue for more than twenty-four (24) hours, stating in detail the cause of the interruption and its expected duration.

[18.3.2.27 NMAC - Rp, 18.3.2.25 NMAC, 1-1-05]

**18.3.2.28 UNAUTHORIZED CARRYING OF PERSONS PROHIBITED:** No motor carrier unauthorized to transport persons shall carry any person, including but not limited to hitchhikers, except on-duty employees of the motor carrier, commission representatives on official business, or in an emergency.

[18.3.2.28 NMAC - Rp, 18.3.2.26 NMAC, 1-1-05]

**18.3.2.29 TEMPORARY AUTHORITY:**

**A. Grant discretionary.** Pursuant to NMSA 1978 Section 65-2A-11, the commission may, in its discretion, but is not required to, grant temporary authority to a person applying for a certificate or permit, amendment of a certificate or permit or for lease or transfer of all or part of a certificate if it finds that the applicant meets the requirements of NMSA 1978 Section 65-2A-11. An application for temporary authority shall be made on the form prescribed by the director.

**B. Original or amended authority.** If the application for temporary authority is made in connection with an application for an original certificate or permit, or for amendment of a certificate or permit, the commission shall not grant temporary authority unless:

(1) the director has certified that the application for permanent operating authority contains all of the information and documents required by 18.3.2.15 NMAC; and

(a) the applicant has shown that the public has an urgent and immediate need for the proposed transportation service by filing affidavits from one or more persons having need of the service; and either

(i) stating that no other motor carrier is providing the transportation service in the territory the applicant seeks to serve; or

(ii) stating that another motor carrier is providing such transportation service, but that such transportation service is inadequate in rates, routes, or service; or

(b) if the application is for non-emergency medical transportation, the applicant may provide a valid New Mexico Human Services Department ("NMHSD") Contract, or Letter of Commitment that meets all federal and state legal guidelines, in lieu of an affidavit. If the applicant is a subcontractor of a party in privity with NMHSD, then the applicant must submit both a copy of the actual contract of the party in privity with NMHSD, and either applicant's Contract, or Letter of Intent with the subcontracting party, in lieu of filing an affidavit; and,

(2) the applicant submits the fee required by NMSA 1978 Section 65-2A-36.

**C. Transfer of authority.** If the application for temporary authority is made in connection with an application for transfer of all or part of a certificate or permit, the commission shall not grant temporary authority to a transferee unless:

(1) the director certifies that the application contains all of the information and documents required by 18.3.8.11 NMAC; and

(2) the transferor provides an affidavit that it is no longer fit, no longer willing, or no longer able to render continuous and adequate service; and

(3) the applicant submits the fee required by NMSA 1978 Section 65-2A-36.

**D. Lease of authority.** If the application for temporary authority is made in connection with an application for lease of all or part of a certificate or permit, the commission shall not grant temporary authority to a transferee unless:

(1) the director certifies that the application contains all of the information and documents required by 18.3.8.10 NMAC; and

(2) the applicant submits the fee required by NMSA 1978 Section 65-2A-36.

**E. Director's certification.** The director shall certify to the commission that the application

contains the required information and documents and that the required affidavits and fee have been filed, and shall make a recommendation to the commission as to whether or not it should grant the temporary authority. [18.3.2.29 NMAC - Rp, 18.3.2.27 NMAC, 1-1-05]

**18.3.2.30 SUSPENSION OR REVOCATION OF OPERATING AUTHORITIES:**

**A. For lapse in financial responsibility.** Upon receipt of a Form K, the director shall issue a letter notifying a motor carrier that its operating authority has been indefinitely suspended as of the date of the letter, without further notice or a public hearing, until the commission receives a valid form E and, if applicable, a valid form H. The letter shall also state that suspension of the operating authority will not take effect if the commission receives a valid Form E and, if applicable, a valid Form H, before the motor carrier's financial responsibility coverage expires.

**B. For safety violation.** Upon receipt of sufficient information that a motor carrier's operations endanger the public health or safety, the director shall present to the commission at its next meeting or at an emergency meeting the safety requirement of the Motor Carrier Act or the rules of the commission or MTD alleged to have been violated and all facts known to the director concerning the matter. If the commission is satisfied that the facts show that a motor carrier's operations endanger the public health and safety and merit immediate temporary suspension, the commission shall personally serve or mail by certified mail, return receipt requested, an order notifying a motor carrier that its operating authority is temporarily suspended. The order shall set the matter for an expedited hearing. The commission may authorize issuance of the order over the signature of a single commissioner. The motor carrier shall suspend operations immediately upon receipt of the commission's order. If the commission determines after the hearing that the motor carrier's operations prior to the suspension were not endangering the public health or safety, the commission shall vacate the suspension order and the motor carrier shall be allowed to resume operations without applying for reinstatement following involuntary suspension or paying any additional fees. The commission may impose lesser temporary restraints or conditions if it believes that the public health and safety will not be compromised.

**C. For failure to render reasonably continuous and adequate service.** The commission may suspend or revoke a certificate or permit, after notice and a public hearing, for failure to render reasonably continuous and adequate service. The commission may find that a motor carrier operating under a certificate or permit that is not seasonal has failed to render reasonably continuous and adequate service when the motor carrier has not operated under the certificate or permit for sixty (60) days or more, and one or more of the following is true:

- (1) the motor carrier is unable to operate; or
- (2) the motor carrier has refused to accept business; or
- (3) the motor carrier has not actively, and in good faith, solicited business; or
- (4) the motor carrier has failed to obtain approval from the commission for voluntary suspension

in accordance with 18.3.8 NMAC, Changes in Certificates and Permits.

[18.3.2.30 NMAC - Rp, 18.3.2.28 NMAC, 1-1-05]

**18.3.2.31 CHANGES OF NAME:**

**A.** A motor carrier that changes its name shall file with the commission within ten (10) days after the change of name:

- (1) the form prescribed by the commission for filing changes of name;
- (2) the original certificate or permit;
- (3) the fee required by NMSA 1978 Section 65-2A-36;
- (4) new filings for Paragraphs (5), (6)(a) or (7), and (8) of Subsection A of 18.3.2.15 NMAC,

and

- (5) the applicable insurance filing forms in the new name and the insurance filing fee.

**B.** If the applicant fails to comply with any of the requirements of subsection A of this section, the commission shall refuse to approve the change of name.

**C.** If the director determines the filing is complete, the commission shall issue a new certificate or permit in the new name.

[18.3.2.31 NMAC - Rp, 18.3.2.9 NMAC, 1-1-05]

**HISTORY OF 18.3.2 NMAC:**

**Pre-NMAC History:** The material in this rule was previously filed with the state records center as:

SCC 68-16, N.M. Motor Carrier Act, Rules and Regulations, effective Sept. 1, 1967, filed on 3-14-68;  
SCC 71-6, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1971, filed on 9-21-71;  
SCC 73-1, N.M. Motor Carrier Act, Rules and Regulations, filed on 6-14-73;  
SCC 74-1, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1973, filed on 2-5-74;  
SCC 75-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1975, filed on 4-17-75;  
SCC 75-3, N.M. Motor Carrier Act, Rules and Regulations (Rev.), effective Jan. 1, 1975, filed on 9-19-75;  
SCC 76-1, N.M. Motor Carrier Act, Rules and Regulations, effective April 1, 1976, filed on 4-15-76;  
SCC 77-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1977, filed on 1-25-77;  
SCCMC Rule No. 4, Application for Certificates and Permits, filed on 3-5-82;  
SCCMC Rule No. 25, Pet Animals, filed on 3-5-82;  
SCCMC Rule No. 27, Bus Express, filed on 3-5-82;  
SCCMC Rule No. 32, Continuous and Adequate Service, filed on 3-5-82;  
SCCMC Rule No. 33, Business-Like Operations, filed on 3-5-82;  
SCCMC Rule No. 43, Hearing on Application-Public Notice, filed on 3-5-82;  
SCC Rule 207, Emergency Rule Governing Motor Carriers of Property, filed on 1-5-93;  
SCC Rule 211, General Operating Authority Provisions, filed on 1-5-93;  
SCC Rule 212, Certificates of Public Convenience and Necessity for Common Motor Carriers, filed on 1-5-93;  
SCC Rule 213, Permits for Contract Motor Carriers, filed on 1-5-93;  
SCC Rule 214, Warrants for Limited Operating Authority, filed on 1-5-93;  
SCC Rule 216, Licenses for Transportation Brokers, filed on 1-5-93;  
SCC Rule 217, Emergency and Temporary Authority, filed on 1-5-93;  
SCC Rule 221, Tariffs, Rates and Schedules, filed on 1-5-93;  
SCC Rule 231, General Compliance Requirements, filed on 1-5-93;  
SCC Rule 251, Motor Carriers of Persons-General Provisions, filed on 1-5-93;  
SCC Rule 261, Motor Carriers of Property-General Provisions, filed on 1-5-93;  
SCC Rule 273, Administrative Enforcement Proceedings, filed on 1-5-93.

**History of Repealed Material:**

SCC Rule 207, Emergency Rule Governing Motor Carriers of Property (filed 1-5-93) repealed 12-30-02.  
SCC Rule 211, General Operating Authority Provisions (filed 1-5-93) repealed 12-30-02.  
SCC Rule 212, Certificates of Public Convenience and Necessity for Common Motor Carriers (filed 1-5-93) repealed 12-30-02.  
SCC Rule 213, Permits for Contract Motor Carriers (filed 1-5-93) repealed 12-30-02.  
SCC Rule 214, Warrants for Limited Operating Authority (filed 1-5-93) repealed 12-30-02.  
SCC Rule 216, Licenses for Transportation Brokers (filed 1-5-93) repealed 12-30-02.  
SCC Rule 217, Emergency and Temporary Authority (filed 1-5-93) repealed 12-30-02.  
SCC Rule 221, Tariffs, Rates and Schedules (filed 1-5-93) repealed 12-30-02.  
SCC Rule 231, General Compliance Requirements (filed 1-5-93) repealed 12-30-02.  
SCC Rule 251, Motor Carriers of Persons-General Provisions (filed 1-5-93) repealed 12-30-02.  
SCC Rule 261, Motor Carriers of Property-General Provisions (filed 1-5-93) repealed 12-30-02.  
SCC Rule 273, Administrative Enforcement Proceedings (filed 1-5-93) repealed 12-30-02.  
18.3.2 NMAC, Operating Authority (filed 12-10-02), repealed 1-5-05.

**Other History:**

SCC Rule 207, Emergency Rule Governing Motor Carriers of Property (filed 1-5-93); SCC Rule 211, General Operating Authority Provisions (filed 1-5-93); SCC Rule 212, Certificates of Public Convenience and Necessity for Common Motor Carriers (filed 1-5-93); SCC Rule 213, Permits for Contract Motor Carriers (filed 1-5-93); SCC Rule 214, Warrants for Limited Operating Authority (filed 1-5-93); SCC Rule 216, Licenses for Transportation Brokers (filed 1-5-93); SCC Rule 217, Emergency and Temporary Authority (filed 1-5-93); SCC Rule 221, Tariffs, Rates and Schedules (filed 1-5-93); SCC Rule 231, General Compliance Requirements (filed 1-5-93); SCC Rule 251, Motor Carriers of Persons-General Provisions (filed 1-5-93); SCC Rule 261, Motor Carriers of Property-General Provisions (filed 1-5-93); and SCC Rule 273, Administrative Enforcement Proceedings (filed 1-5-93) all replaced by 18.3.2 NMAC, Operating Authorities, effective 12-30-02.  
18.3.2 NMAC, Operating Authorities (filed 12-10-02) replaced by 18.3.2 NMAC, Operating Authorities, effective 1-1-05.

**TITLE 18      TRANSPORTATION AND HIGHWAYS**  
**CHAPTER 3    MOTOR CARRIER GENERAL PROVISIONS**  
**PART 3        FINANCIAL RESPONSIBILITY**

**18.3.3.1        ISSUING AGENCY:** New Mexico Public Regulation Commission.  
[18.3.3.1 NMAC - N, 12-30-02]

**18.3.3.2        SCOPE:**  
**A.**        This rule applies to all motor carriers subject to the jurisdiction of the commission.  
**B.**        This rule also applies to persons who provide a service for which they charge at the time the service is rendered and who transport the public incidentally to providing that service. For purposes of this rule only, such persons are considered motor carriers.  
[18.3.3.2 NMAC - N, 12-30-02]

**18.3.3.3        STATUTORY AUTHORITY:** NMSA 1978 Sections 8-8-4 and 65-2A-4.  
[18.3.3.3 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.3.4        DURATION:** Permanent.  
[18.3.3.4 NMAC - N, 12-30-02]

**18.3.3.5        EFFECTIVE DATE:** December 30, 2002, unless a later date is cited at the end of a section.  
[18.3.3.5 NMAC - N, 12-30-02]

**18.3.3.6        OBJECTIVE:** The purpose of this rule is to implement NMSA 1978 Section 65-2A-18.  
[18.3.3.6 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.3.7        DEFINITIONS:** See 18.3.1.7 NMAC.  
[18.3.3.7 NMAC - N, 12-30-02]

**18.3.3.8        PROOF OF FINANCIAL RESPONSIBILITY:** Every motor carrier must file proof of financial responsibility with the commission. The required financial responsibility must be in the exact legal and "doing business as" name of the motor carrier.

**A.        Intrastate motor carriers.**

**(1)        Public liability financial responsibility.** The commission will accept the following documents as proof of the required public liability financial responsibility:

**(a)**        a certificate showing the issuance of an insurance policy with the required uniform endorsement by a company authorized to transact insurance business in New Mexico on uniform filing form E for public liability insurance; or

**(b)**        a surety bond issued by a company authorized to do surety business in New Mexico;  
or

**(c)**        a certified statement from the superintendent of insurance that the motor carrier has met all requirements to be self-insured.

**(2)        Cargo liability financial responsibility.** The commission will accept as proof of the required cargo liability financial responsibility a certificate showing the issuance of an insurance policy with the required uniform endorsement by a company authorized to transact insurance business in New Mexico on uniform filing form H.

**B.        Interstate motor carriers.** The commission will accept as proof of the required public liability financial responsibility a certificate showing the issuance of an insurance policy with the required uniform endorsement by a company authorized to transact insurance business in any state of the United States on uniform filing form BMC 91 or BMC 91X.

[18.3.3.8 NMAC - Rp, SCC Rules 231.01 and 232.02, 12-30-02]

**18.3.3.9        INSURANCE FILINGS:**  
**A.        Address for correct filing of insurance-related documents.**

(1) **Current address.** Insurance companies must mail original uniform filing forms E, H, and K to the New Mexico Public Regulation Commission, Transportation Division, P.O. Box 1269, Santa Fe, New Mexico 87504-1269. The commission will not accept copies of uniform filings.

(2) **Possible future address.** The commission may in its discretion elect to participate in a central repository of motor carrier insurance information which would allow the commission to accept electronic filings of forms E, H, and K made to the central repository and to access other information contained in the central repository. In such event, the commission will post the address for filing insurance-related documents on its website.

**B. Filing fees.** Insurance companies for intrastate motor carriers must file the insurance filing fee required by NMSA 1978 Section 65-2A-36 with each filing of a uniform filing form E or H. [18.3.3.9 NMAC - N, 12-30-02; A, 1-1-05]

#### **18.3.3.10 MINIMUM LIMITS OF PUBLIC LIABILITY INSURANCE:**

**A.** Motor carriers of persons providing service in vehicles with a seating capacity of sixteen (16) persons or more, excluding the driver, must maintain a combined single-limit public liability insurance policy of at least five million dollars (\$5,000,000) per occurrence for bodily injury to or death of all persons injured or killed and property damage.

**B.** Motor carriers of persons providing service in vehicles with a seating capacity of seven (7) to fifteen (15) persons, excluding the driver, must maintain a combined single-limit public liability insurance policy of at least one million five hundred thousand dollars (\$1,500,000) per occurrence for bodily injury to or death of all persons injured or killed and property damage.

**C.** Motor carriers of persons providing service in vehicles with a seating capacity of six (6) persons or fewer, excluding the driver, must maintain a combined single-limit public liability insurance policy of at least one million dollars (\$1,000,000) per occurrence for bodily injury to or death of all persons injured or killed and property damage.

**D.** Household goods carriers must maintain a combined single-limit public liability insurance policy of at least one million five hundred thousand dollars (\$1,500,000) per occurrence for bodily injury to or death of all persons injured or killed and property damage.

**E.** Towing services, repossession services, and motor carriers of property must maintain a combined single-limit public liability insurance policy of at least seven hundred and fifty thousand dollars (\$750,000) per occurrence for bodily injury to or death of all persons injured or killed and property damage.

**F.** Motor carriers of property transporting hazardous matter in intrastate commerce in New Mexico must maintain the minimum levels of financial responsibility required by 49 CFR 387.9 for interstate commerce.

**G.** Incidental carriers must maintain a combined single-limit public liability policy amount of at least two hundred and fifty thousand dollars (\$250,000) per occurrence for bodily injury to or death of all persons injured or killed and property damage.

[18.3.3.10 NMAC - Rp, SCC Rule 232.03, 12-30-02; A, 1-1-05; A, 11-30-06; A, 3-22-11]

#### **18.3.3.11 ADDITIONAL SPECIALTY INSURANCE REQUIREMENTS:**

**A.** Towing services must maintain fifty thousand dollars (\$50,000) of both on-the-hook and garage-keepers' liability insurance.

**B.** Motor carriers transporting hazardous matter must maintain five million dollars (\$5,000,000) of environmental restoration and wrongful disposal liability insurance.

**C.** Household goods carriers must maintain fifty thousand dollars (\$50,000) cargo liability insurance per shipper for loss or damage to cargo of the shipper.

[18.3.3.11 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.3.12 MAXIMUM DEDUCTIBLE:** No motor carrier insurance policy shall have a deductible in excess of five thousand dollars (\$5,000), except that the commission may approve a higher deductible for a motor carrier that files:

**A.** a surety bond with the commission in an amount equal to the difference between five thousand dollars (\$5,000) and the amount of the higher deductible; or

**B.** a certified statement from the superintendent of insurance that the person has met the requirements to be self-insured up to a limit equal to or greater than the amount of the higher deductible.



[18.3.3.12 NMAC - N, 12-30-02]

**18.3.3.13 CANCELLATION OF INSURANCE:**

**A. Required expiration date.** All motor carrier insurance policies must be written or endorsed with an expiration date "until canceled."

**B. Intrastate.** An intrastate motor carrier may cancel its insurance by having its insurance company file with the commission or its designee a uniform filing form K stating that the motor carrier's public liability insurance or cargo insurance will expire in thirty (30) days.

**C. Interstate.** An interstate motor carrier may cancel its insurance by having its insurance company file with the commission or its designee a uniform filing form BMC 35 stating that the motor carrier's public liability insurance will expire in thirty (30) days.

[18.3.3.13 NMAC - Rp, SCC Rule 232.04, 12-30-02]

**18.3.3.14 AUTOMATIC SUSPENSION OF OPERATING AUTHORITY:** The commission shall, in accordance with 18.3.2.30 NMAC, suspend the operating authority of a motor carrier if it fails to continuously maintain the amounts of financial responsibility required by this rule. If a motor carrier's operating authority explicitly authorizes seasonal transportation service, the continuous coverage requirement of this rule shall apply only during the seasonal period during which the motor carrier is authorized to provide service.

[18.3.3.14 NMAC - N, 12-30-02; A, 1-1-05]

**HISTORY OF 18.3.3 NMAC**

**Pre-NMAC history.** The material in this rule was previously filed with the State Records Center as: SCC 68-16, N.M. Motor Carrier Act, Rules and Regulations, effective Sept. 1, 1967, filed on 3-14-68; SCC 71-6, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1971, filed on 9-21-71; SCC 73-1, N.M. Motor Carrier Act, Rules and Regulations, filed on 6-14-73; SCC 74-1, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1973, filed on 2-5-74; SCC 75-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1975, filed on 4-17-75; SCC 75-3, N.M. Motor Carrier Act, Rules and Regulations (Rev.), effective Jan. 1, 1975, filed on 9-19-75; SCC 76-1, N.M. Motor Carrier Act, Rules and Regulations, effective April 1, 1976, filed on 4-15-76; SCC 77-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1977, filed on 1-25-77; SCCMC Rule No. 30, Insurance, filed on 3-5-82; SCCMC Rule No. 41, Uniform Standards, filed on 3-5-82; SCC Rule 231, General Compliance Requirements, filed on 1-5-93; SCC Rule 232, Insurance Requirements, filed on 1-5-93.

**History of repealed material.**

SCC Rule 231, General Compliance Requirements, filed on 1-5-93;  
SCC Rule 232, Insurance Requirements, filed on 1-5-93.

**TITLE 18       TRANSPORTATION AND HIGHWAYS**  
**CHAPTER 3     MOTOR CARRIER GENERAL PROVISIONS**  
**PART 4         SAFETY REQUIREMENTS**

**18.3.4.1       ISSUING AGENCY:** New Mexico Public Regulation Commission, Transportation Division.  
[18.3.4.1 NMAC - N, 1-1-05]

**18.3.4.2       SCOPE:**

**A.**       This rule applies to all drivers, all motor carriers and commuter services subject to the jurisdiction of the commission, and all motor vehicles operated by the motor carrier or commuter service in the course of its operations, subject to the exceptions and limitations stated in particular sections of this rule.

**B.**       Whenever this rule prescribes a duty or imposes a prohibition on a driver, the motor carrier that uses, employs, or contracts with the driver shall require its drivers to observe the duty or prohibition.

**C.**       A motor carrier who employs himself or herself as a driver must comply with both the rules that apply to motor carriers and the rules that apply to drivers.

[18.3.4.2 NMAC - N, 1-1-05]

**18.3.4.3       STATUTORY AUTHORITY:** NMSA 1978 Sections 8-8-4, 65-2A-4, and 65-6-4.

[18.3.4.3 NMAC - N, 1-1-05]

**18.3.4.4       DURATION:** Permanent.

[18.3.4.4 NMAC - N, 1-1-05]

**18.3.4.5       EFFECTIVE DATE:** January 1, 2005, unless a later date is cited at the end of a section.

[18.3.4.5 NMAC - N, 1-1-05]

**18.3.4.6       OBJECTIVE:** The purpose of this rule is to implement NMSA 1978 Sections 65-2A-19 and 65-6-4 by establishing safety requirements for drivers, motor vehicles, and motor carriers and commuter services subject to the jurisdiction of the commission.

[18.3.4.6 NMAC - N, 1-1-05]

**18.3.4.7       DEFINITIONS:** In addition to the definitions in 18.3.1.7 NMAC, as used in this rule:

**A.**       **CDL driver** means a driver who is required by 49 CFR Section 383.3 or NMSA 1978 Section 66-5-59 to have a commercial driver's license;

**B.**       **driver** means a person who drives a motor vehicle as, for, or on behalf of a motor carrier or a commuter service;

**C.**       **MVD** means the motor vehicle division of the New Mexico taxation and revenue department.

[18.3.4.7 NMAC - N, 1-1-05]

**18.3.4.8       AVAILABILITY OF CITED MATERIAL:** The sections of the code of federal regulations cited in this rule may be found on the government printing office website at <http://www.gpoaccess.gov/cfr/>. Printed copies of the cited motor carrier regulations are also available at nominal cost from the New Mexico motor carriers association, listed in the Albuquerque telephone directory.

[18.3.4.8 NMAC - N, 1-1-05]

**18.3.4.9       SUBSTITUTION OF TERMS:** Wherever one of the following terms appears in a part or section of title 49 adopted by reference in this rule, substitute the provided term or phrase:

**A.**       for the terms "commerce" and "interstate commerce," substitute "intrastate commerce," as defined in 49 CFR Section 390.5;

**B.**       for the terms "commercial motor vehicle," "bus," "truck," and "truck tractor," substitute "motor vehicle," as defined in NMSA 1978 Section 65-2A-3, except in 49 CFR Section 391.21(b)(11). The term "motor vehicle" shall not include any limitations based on gross combination weight rating, gross vehicle weight rating, or passenger seating capacity;

C. for the abbreviation “FMCSA,” substitute “public regulation commission” or “PRC.”  
[18.3.4.9 NMAC - N, 1-1-05]

**18.3.4.10 REQUIREMENTS APPLICABLE TO ALL DRIVERS:**

**A. Drug and alcohol testing.**

(1) **Procedures for transportation workplace drug and alcohol testing programs.** This rule adopts by reference title 49, part 40 of the code of federal regulations in its entirety.

(2) **Controlled substances and alcohol use and testing.** This rule adopts by reference title 49, part 382 of the code of federal regulations, except for sections 382.117 and 382.119.

(3) **Commuter services.** Commuter services shall comply with the requirements of Subsection C of NMSA 1978 Section 65-2A-19.

**B. Hours of service of drivers.** This rule adopts by reference title 49, part 395 of the code of federal regulations, except that section 395.1(e)(1) is amended to add: "or operates in intrastate commerce within a 150 air-mile radius of the normal work reporting location."

[18.3.4.10 NMAC - N, 1-1-05]

**18.3.4.11 REQUIREMENTS APPLICABLE ONLY TO CDL DRIVERS:**

**A. Commercial drivers licenses.** This rule adopts by reference NMSA 1978 chapter 66, article 5, part 1A.

**B. Qualifications of drivers and longer combination vehicle (LCV) driver instructors.** This rule adopts by reference title 49, part 391 of the code of federal regulations with the following changes:

(1) Section 391.11(b)(1) is amended to add: “or is 18 years old and drives only in intrastate commerce motor vehicles that are not required to be placarded for hazardous materials;”

(2) Section 391.15 is not adopted;

(3) Section 391.49(a) is amended to add: “or the director of MVD has granted a waiver to that person pursuant to 18.19.5.33 NMAC.”

**C. Driving of commercial motor vehicles.** This rule adopts by reference title 49, part 392 of the code of federal regulations in its entirety.

**D. Parts and accessories necessary for safe operation.** This rule adopts by reference title 49, part 393 of the code of federal regulations in its entirety.

**E. Inspection, repair and maintenance.** This rule adopts by reference title 49, part 396 of the code of federal regulations in its entirety.

**F. Transportation of hazardous material; driving and parking rules.** This rule adopts by reference title 49, part 397 of the code of federal regulations in its entirety.

[18.3.4.11 NMAC - N, 1-1-05]

**18.3.4.12 REQUIREMENTS APPLICABLE ONLY TO NON-CDL DRIVERS:**

**A. Operator’s and chauffeur’s licenses.** This rule adopts by reference NMSA 1978 chapter 66, article 5, part 1.

**B. Qualifications of drivers.** This rule adopts by reference only the following specific sections of title 49, part 391 of the code of federal regulations:

(1) **general qualifications of drivers:** Section 391.11(b)(8);

(2) **application for employment:** Section 391.21;

(3) **investigations and inquiries:** Section 391.23, except that:

(a) this section shall not apply to commuter services;

(b) “public regulation commission” should be substituted for:

(i) department of transportation in section 391.23(a)(2), (i)(1), and (i)(2);

(ii) FMCSA in section 391.23(c)(3) and (j)(6);

(iii) DOT in section 391.23(c)(4) and (e);

(c) section 391.23(d)(2) is amended to substitute “in the uniform accident report form prescribed by the state of New Mexico” for “as specified in section 390.15(b)(1) of this chapter”;

(4) **annual inquiry and review of driving record.** Section 391.25, except that:

(a) Subsections 391.25(a) and (b) are amended to delete: “Except as provided in subpart G of this part;”

- (b) Section 391.25 shall not apply to volunteer drivers;
- (5) **record of violations:** Section 391.27, except that section 391.27(a) is amended to delete: “Except as provided in subpart G of this part;”
- (6) **road test:** Section 391.31, except that section 391.31(a) is amended to delete: “Except as provided in subpart G;”
- (7) **equivalent of road test:** Section 391.33; an ambulance service may also accept from a person who seeks to drive an ambulance a copy of a certificate of completion from an emergency vehicle operator’s course approved by the emergency medical services bureau;
- (8) **physical qualifications for drivers:** Section 391.41, except that drivers for ambulance and commuter services are exempt from section 391.41(a);
- (9) **medical examinations; certificate of physical examination:** Section 391.43, except that:
  - (a) for volunteer drivers of ambulance services only, the physician performing the medical examination shall perform a medical examination sufficient to enable the physician to certify, in accordance with Subsection C of 18.19.5.33 NMAC, whether or not the driver has a condition which may interfere with the safe operation of an ambulance; and
  - (b) this section shall not apply to commuter services;
- (10) **persons who must be medically examined and certified:** Section 391.45, but this section shall not apply to volunteer drivers;
- (11) **general requirements for driver qualification files:** Section 391.51, except that:
  - (a) subsections 391.51(b)(8) and (d)(5) are not adopted;
  - (b) this section shall not apply to commuter services;
- (12) **driver investigation history file:** Section 391.53, but this section shall not apply to commuter services.

**C. Driving of commercial motor vehicles.** This rule adopts by reference the following sections of title 49, part 392 of the code of federal regulations:

- (1) **ill or fatigued operator:** Section 392.3;
- (2) **drugs and other substances:** Section 392.4;
- (3) **alcohol prohibition:** Section 392.5;
- (4) **emergency equipment, inspection and use:** Section 392.8, but this section is amended to substitute NMSA 1978 Section 66-3-849 for the reference to Section 393.95;
- (5) **inspection of cargo, cargo securement devices and systems:** Section 392.9, except that this section shall:
  - (a) not apply to ambulance or commuter services;
  - (b) only apply to a motor vehicle with a gross vehicle weight rating of 10,000 pounds or more;
- (6) **hazardous conditions; extreme caution:** Section 392.14, but this section shall not apply to ambulance services;
- (7) **use of seat belts:** Section 392.16;
- (8) **obscured lamps or reflectors:** Section 392.33;
- (9) **ignition of fuel; prevention:** Section 392.50;
- (10) **safe operation, buses:** Section 392.62;
- (11) **towing or pushing loaded buses:** Section 392.63;
- (12) **riding within closed commercial motor vehicles without proper exits:** Section 392.64;
- (13) **carbon monoxide; use of commercial motor vehicle when detected:** Section 392.66;
- (14) **radar detectors; use and/or possession:** Section 392.71.

**D. Equipment.** This rule adopts by reference NMSA 1978 chapter 66, article 3, parts 9 and 10.

**E. Inspection, repair and maintenance.** This rule adopts by reference the following sections of title 49, part 396 of the code of federal regulations:

- (1) **inspection, repair and maintenance:** Section 396.3, but this section shall not apply to commuter services;
- (2) **lubrications:** Section 396.5;
- (3) **driver vehicle inspection reports:** Section 396.1; a commuter service shall be exempt from this section, but each commuter service shall require its drivers to report to it, and each commuter service shall timely repair, any defect or deficiency that would be likely to affect the safe operation of the motor vehicle;

(4) **driver inspection:** Section 396.13, except that commuter services are exempt from subsections 396.13 (b) and (c);

(5) **periodic inspection:** Section 396.17;

(6) **inspector qualifications:** Section 396.19;

(7) **periodic inspection recordkeeping requirements:** Section 396.21;

(8) **equivalent to periodic inspection:** Section 396.23(a);

(9) **qualifications of brake inspectors:** Section 396.25.

[18.3.4.12 NMAC - N, 1-1-05]

#### **18.3.4.13 IDENTIFICATION OF EQUIPMENT:**

**A. Issuance.** The commission shall assign an NMPRC transportation number to each motor carrier or commuter service when it issues an operating authority. Any transportation number issued by the New Mexico state corporation commission shall be changed to an NMPRC transportation number and displayed as required by this rule.

**B. Display.** The letters and numbers must be not less than one-half inch (1/2") wide and not less than two and one half inches (2 1/2") high. The transportation number will be displayed in the following manner: "NMPRC 123".

(1) **Placement on limousines.** The NMPRC transportation number must be distinctly displayed on the front and rear bumpers of each limousine operated in New Mexico.

(2) **Placement on all other motor vehicles.** The name or d/b/a name of the motor carrier or commuter service and the NMPRC transportation number must be distinctly displayed on the right and left doors, or sides of the power unit, of each motor vehicle operated in New Mexico.

#### **C. Exceptions.**

(1) Interstate motor carriers that display a federal transportation number are not required to display the NMPRC transportation number.

(2) Intrastate motor carriers that display a New Mexico safety identification number issued by MVD are not required to display the NMPRC transportation number.

[18.3.4.13 NMAC - Rp, 18.3.5.8 NMAC, 1-1-05]

#### **History of 18.3.4 NMAC:**

**Pre-NMAC history.** The material in this rule was previously filed with the state records center as:

SCCMC Rule No. 3, Hours of Service, filed on 3-5-82;

SCCMC Rule No. 6, Qualifications of Drivers, filed on 3-5-82;

SCCMC Rule No. 7, Driving of Motor Vehicles, filed on 3-5-82;

SCCMC Rule No. 8, Emergency Equipment, filed on 3-5-82;

SCCMC Rule No. 9, Securing of Load and Equipment, filed on 3-5-82;

SCCMC Rule No. 11, Emergency Signals, filed on 3-5-82;

SCCMC Rule No. 12, Head Lamps and Auxiliary Road Lighting Lamps, filed on 3-5-82;

SCCMC Rule No. 13, Brakes, filed on 3-5-82;

SCCMC Rule No. 14, Equipment Required on Certain Vehicles, filed on 3-5-82;

SCCMC Rule No. 15, Windshields Must be Unobstructed and Equipped with Wipers, filed on 3-5-82;

SCCMC Rule No. 16, Mirrors, filed on 3-5-82;

SCCMC Rule No. 17, Horns and Warning Devices, filed on 3-5-82;

SCCMC Rule No. 37, Slick Tires, filed on 3-5-82;

SCCMC Rule No. 39, Identification of Equipment, filed on 3-5-82;

SCC 68-16, N.M. Motor Carrier Act, Rules and Regulations, effective Sept. 1, 1967, filed on 3-14-68;

SCC 71-6, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1971, filed on 9-21-71;

SCC 73-1, N.M. Motor Carrier Act, Rules and Regulations, filed on 6-14-73;

SCC 74-1, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1973, filed on 2-5-74;

SCC 75-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1975, filed on 4-17-75;

SCC 75-3, N.M. Motor Carrier Act, Rules and Regulations (Rev.), effective Jan. 1, 1975, filed on 9-19-75;

SCC 76-1, N.M. Motor Carrier Act, Rules and Regulations, effective April 1, 1976, filed on 4-15-76;

SCC 77-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1977, filed on 1-25-77;

SCC Rule 207, Emergency Rule Governing Motor Carriers of Property, filed on 12-28-94

SCC Rule 231, General Compliance Requirements, filed on 1-5-93;

SCC Rule 231, General Compliance Requirements, filed on 10-27-93.  
SCC Rule 241, Records of Motor Transportation Entities, filed on 1-5-93.

**History of repealed material.**

SCC Rule 207, Emergency Rule Governing Motor Carriers of Property (filed 12-28-94) repealed 12-30-02.  
SCC Rule 231, General Compliance Requirements (filed 10-27-93) repealed 12-30-02.  
SCC Rule 241 Records of Motor Transportation Entities (filed 1-5-93) repealed 12-30-02.  
18.3.4 NMAC, Qualifications of Drivers (filed 12-10-2002) repealed 1-1-05.  
18.3.5 NMAC, Operating Requirements (filed 12-10-2002) repealed 1-1-05.

**Other History:**

That applicable portion of SCC Rule 231, General Compliance Requirements (filed 10-27-93) replaced by 18.3.4 NMAC, Qualifications of Drivers effective 12-30-2002.  
SCC Rule 207, Emergency Rule Governing Motor Carriers of Property (filed 12-28-94); that applicable portion of SCC Rule 231, General Compliance Requirements (filed 10-27-93); and SCC Rule 241 Records of Motor Transportation Entities (filed 1-5-93) all replaced by 18.3.5 NMAC, Operating Requirements, effective 12-30-2002.  
18.3.4 NMAC, Qualifications of Drivers (filed 12-10-2002) and 18.3.5 NMAC, Operating Requirements (filed 12-10-2002) both replaced by 18.3.4 NMAC, Safety Requirements, effective 1-1-05.

**18.3.5 NMAC is not missing; it was incorporated into the new 18.3.4 NMAC, Safety Requirements.**

**CHAPTER 3 MOTOR CARRIER GENERAL PROVISIONS**  
**PART 6 TARIFFS**

**18.3.6.1 ISSUING AGENCY:** New Mexico Public Regulation Commission.  
[18.3.6.1 NMAC - N, 12-30-02]

**18.3.6.2 SCOPE:**

**A.** This rule applies to household goods carriers, towing services performing non-consensual tows, and motor carriers of persons subject to the jurisdiction of the commission.

**B.** This rule does not apply to charter services or commuter services.  
[18.3.6.2 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.6.3 STATUTORY AUTHORITY:** NMSA 1978 Sections 8-8-4 and 65-2A-4.  
[18.3.6.3 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.6.4 DURATION:** Permanent.  
[18.3.6.4 NMAC - N, 12-30-02]

**18.3.6.5 EFFECTIVE DATE:** December 30, 2002, unless a later date is cited at the end of a section.  
[18.3.6.5 NMAC - N, 12-30-02]

**18.3.6.6 OBJECTIVE:** The purpose of this rule is to implement NMSA 1978 Sections 65-2A-20 and 65-2A-21.  
[18.3.6.6 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.6.7 DEFINITIONS:** See 18.3.1.7 NMAC.  
[18.3.6.7 NMAC - N, 12-30-02]

**18.3.6.8 COMMENCEMENT OF OPERATIONS:** No motor carrier may commence operations or perform any new service under its operating authority until the commission has approved tariffs containing rates, schedules, and terms and conditions for the services to be performed.  
[18.3.6.8 NMAC - Rp, SCC Rule 221.03, 12-30-02]

**18.3.6.9 CONTENTS OF TARIFFS:**

**A.** All proposed tariffs filed with the commission must be consistent with applicable statutes and these rules, clear in their disclosures, free from ambiguities, and shall contain:

(1) a title page with the legal and "doing business as" name of the motor carrier as shown on its application or operating authority, its NMPRC number, the proposed tariff number, the proposed effective date of the tariff, and the name, address and telephone number of the person to whom correspondence regarding the tariff should be addressed;

(2) a brief description of the transportation services to be provided and the territory to be served;

(3) any terms and conditions applicable to the rendition of the service;

(4) rates stated in dollars and cents per passenger, mile, hour, pound, or other readily ascertainable unit, to, from, and between points in the territory to be served; and

(5) for motor carriers providing scheduled service, a general schedule stating the days of the week on which the motor carrier will provide service, the minimum number of runs per day, the latest time for the first run of the day, the earliest time for the last run of the day, the general area of all arrival and departure points, and at least one precisely defined departure point and one precisely defined arrival point.

**B.** A motor carrier may not include a provision for mandatory gratuities in a tariff.

**C.** A motor carrier may not limit its liability for negligence through terms and conditions of service in its tariff.

[18.3.6.9 NMAC - Rp, SCC Rule 221.04, 12-30-02; A, 1-1-05]

**18.3.6.10 RATES BETWEEN UNITS:** Whenever the exact size of a ratemaking unit does not appear



in a scale of rates in a tariff, the applicable rate shall be that prescribed for the next greater sized unit in the scale.

[18.3.6.10 NMAC - Rp, SCC Rule 221.10, 12-30-02]

**18.3.6.11 COMPUTATION OF DISTANCES:**

**A.** A motor carrier shall use the least expensive route when charging by mileage, consistent with existing events and road and weather conditions, unless the passenger or customer directs otherwise.

A motor carrier other than a taxicab service shall compute actual distances using odometer readings, GPS-based data, or the official road map of New Mexico issued by the New Mexico department of transportation. A taxicab service may use odometer readings, a calibrated meter, or a zone structure.

**C.** In computing distances, a motor carrier shall retain all fractions of miles until the segments are added to obtain the total distance. Any remaining fraction of less than 1/2 (.5) mile will be omitted; any remaining fraction of 1/2 (.5) mile or greater will be increased to the next whole mile.

[18.3.6.11 NMAC - Rp, SCC Rule 267.14, 12-30-02; A, 1-1-05]

**18.3.6.12 TARIFFS TO BE AVAILABLE:** A motor carrier subject to this rule shall maintain at its principal place of business and at each of its billing stations, and make available for inspection to the public at all times the motor carrier is open for business, all of the tariffs containing rates, terms and conditions, and the general schedule of service, and the most current specific schedule of service in effect.

[18.3.6.12 NMAC - Rp, SCC Rule 221.08, 12-30-02]

**18.3.6.13 CONTENTS OF APPLICATION FOR APPROVAL OF A COMMON TARIFF:**

**A.** An application for approval of a motor carrier agreement must contain:

- (1) a true copy of the agreement; and
- (2) the full and correct name and business address of each motor carrier which is a party to the agreement and whether it is a limited liability company, corporation, partnership, or individual.

**B.** If the agreement for which approval is sought establishes or continues a motor carrier association, then the following information concerning the motor carrier association must be submitted:

(1) The full and correct name and business address of the motor carrier association; whether it is an association, corporation, or partnership; if a corporation, the government, state, or territory under the laws of which the applicant was organized and received its present charter; and, if an association or partnership, the names of the officers or partners and the date of formation.

(2) a complete description of such motor carrier association, including any subunits, and of its or their functions and methods of operation, together with a description of the territorial scope of such operations; and, if such motor carrier association has a working or other arrangement or relationship with any other motor carrier association, a complete description of such arrangement or relationship. If the agreement is of any other character, a precise statement of its nature and scope and the mode of its procedure.

(3) The facts and circumstances relied upon to establish that the agreement will be in furtherance of the transportation policy of this state.

(4) The name, title, and business address of counsel, an officer, or other person representing the motor carrier association to whom correspondence regarding the agreement should be addressed.

(5) A copy of the constitution, bylaws, or other documents or writings, specifying the motor carrier association's powers, duties, and procedures, unless incorporated in the agreement.

(6) An organization chart of the motor carrier association.

(7) A brief description of the manner by which the motor carrier association is funded.

[18.3.6.13 NMAC - Rp, SCC Rule 222.03, 12-30-02; A, 1-1-05]

**18.3.6.14 CHANGES IN TARIFFS AND COMMON TARIFFS:** As used in this section, tariff includes a motor carrier agreement.

**A. Application.** A motor carrier that proposes to change its rates, terms and conditions of service, or general schedule, shall file an application for a change in tariff.

- (1) An application for a change in rates shall include:
  - (a) a proposed tariff including the proposed changes in rates;
  - (b) a balance sheet for the preceding fiscal year;
  - (c) an income statement for the preceding fiscal year;

(d) all documentary evidence which the applicant believes supports its proposed change in rates; and

(e) pre-filed direct testimony explaining why a change in rates is required for the motor carrier to achieve revenue levels that will provide a flow of net income adequate to support reasonable expense levels, including reasonable depreciation expense and repayment of a reasonable level of debt, and permit the raising of needed equity capital.

(2) An application for a change in terms and conditions of service or a change in a general schedule shall include:

(a) a proposed tariff including the proposed changes in terms and conditions of service or general schedule;

(b) a description of the proposed changes and an explanation as to why they are needed; and

(c) all evidence upon which the applicant intends to rely in support of its proposed changes in terms and conditions of service or general schedule.

**B. Procedure.** The commission shall review applications for a change in tariff in accordance with 18.3.2.16 through 18.3.2.20 NMAC.

**C. Qualifying provisions.** If the commission finds that the applicant has met the statutory requirements in NMSA 1978 Sections 65-2A-20, 65-2A-21, and 65-2A-22 and 65-2A-23 if applicable, the commission shall issue an order conditionally approving the application for a change in tariff or common tariff. The applicant must, within the timeframe set forth in the order, comply with any qualifying provisions, terms, conditions, or limitations set forth by the commission in its order. If the applicant fails to timely comply with all qualifying provisions, the commission may dismiss the case without prejudice and close the docket.

**D. Approval.** Within five (5) business days after the date the director certifies that the applicant has complied with all qualifying provisions, the commission shall issue an order approving the tariff change. [18.3.6.14 NMAC - N, 12-30-02; A, 1-1-05]

#### **18.3.6.15 SPECIFIC SCHEDULES OF SERVICE:**

**A. Contents of specific schedules.** A motor carrier providing scheduled service shall file with the director a specific schedule of service that complies with the minimum requirements stated in the general schedule in its approved tariff and contains precise departure times and estimated arrival times for each stop on each route on which the carrier provides scheduled transportation services.

**B. Changes in specific schedules.** Whenever a motor carrier proposes to change its specific schedule of service, it shall:

(1) file a copy of the proposed specific schedule of service with the director at least thirty (30) calendar days before the changed schedule will go into effect. The director may disapprove any proposed change in schedule that does not comply with the minimum requirements stated in a carrier's general schedule.

(2) mail the proposed specific schedule to all motor carriers on the transportation list and file a certificate of mailing with the director.

[18.3.6.15 NMAC - N, 12-30-02; A, 1-1-05]

#### **HISTORY OF 18.3.6 NMAC**

**Pre-NMAC history.** The material in this rule was previously filed with the State Records Center as: SCC 68-16, N.M. Motor Carrier Act, Rules and Regulations, effective Sept. 1, 1967, filed on 3-14-68; SCC 71-6, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1971, filed on 9-21-71; SCC 73-1, N.M. Motor Carrier Act, Rules and Regulations, filed on 6-14-73; SCC 74-1, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1973, filed on 2-5-74; SCC 75-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1975, filed on 4-17-75; SCC 75-3, N.M. Motor Carrier Act, Rules and Regulations (Rev.), effective Jan. 1, 1975, filed on 9-19-75; SCC 76-1, N.M. Motor Carrier Act, Rules and Regulations, effective April 1, 1976, filed on 4-15-76; SCC 77-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1977, filed on 1-25-77; SCCMC Rule No. 5, Tariffs and Schedules, filed on 3-5-82; SCCMC Rule No. 26, New Time Schedules, filed on 3-5-82; SCC Rule 221, Tariffs, Rates and Schedules, filed on 1-5-93; SCC Rule 222, Motor Carrier Agreements, filed on 1-5-93; SCC Rule 267, Wrecker Services.

**History of repealed material.**

SCC Rule 221, Tariffs, Rates and Schedules, filed on 1-5-93;

SCC Rule 222, Motor Carrier Agreements, filed on 1-5-93;

SCC Rule 267, Wrecker Services.

**TITLE 18           TRANSPORTATION AND HIGHWAYS**  
**CHAPTER 3        MOTOR CARRIER GENERAL PROVISIONS**  
**PART 7            REPORTS, RECORDS, AND ACCOUNTS**

**18.3.7.1           ISSUING AGENCY:** New Mexico Public Regulation Commission.  
[18.3.7.1 NMAC - N, 12-30-02]

**18.3.7.2           SCOPE:**

**A.**       18.3.7.8 NMAC through 18.3.7.13 NMAC apply to all motor carriers subject to the jurisdiction of the commission, except that ambulance services are exempt from 18.3.7.8, 18.3.7.9, and 18.3.7.13 NMAC.

**B.**       18.3.7.14 NMAC through 18.3.7.16 NMAC apply only to motor carriers operating pursuant to a certificate or a permit.

**C.**       Commuter services and persons who have obtained single trip tickets from the commission are subject to 18.3.7.11 NMAC only.

[18.3.7.2 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.7.3           STATUTORY AUTHORITY:** NMSA 1978 Sections 8-8-4, 65-2A-4, and 65-2A-29.  
[18.3.7.3 NMAC - N, 12-30-02; A, 1-1-05]]

**18.3.7.4           DURATION:** Permanent.  
[18.3.7.4 NMAC - N, 12-30-02]

**18.3.7.5           EFFECTIVE DATE:** December 30, 2002, unless a later date is cited at the end of a section.  
[18.3.7.5 NMAC - N, 12-30-02]

**18.3.7.6           OBJECTIVE:** The purpose of this rule is to implement NMSA 1978 Section 65-2A-29.  
[18.3.7.6 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.7.7           DEFINITIONS:** See 18.3.1.7 NMAC.  
[18.3.7.7 NMAC - N, 12-30-02]

**18.3.7.8           ANNUAL REPORT:** Every motor carrier except ambulance services shall prepare and file with the commission an annual report of its operations.

**A.       Date of filing.** Motor carriers shall file reports on or before March 31 of each year for the immediately preceding calendar year.

**B.       Form and verification of annual report:** The annual report must be made on the form prescribed by the director. The accuracy of the contents of the report must be verified under oath by the owner of the motor carrier, if the motor carrier is a sole proprietorship; by a partner, if the motor carrier is a partnership; by an authorized member, if the motor carrier is a limited liability company; or by the president and secretary, if the motor carrier is a corporation.

**C.       Failure to file annual report:** The commission may assess fines or may suspend or revoke the operating authority of a motor carrier for failure to file an annual report by the applicable filing deadline. Failure to timely file an annual report will create a presumption that the motor carrier holding the operating authority has failed to render continuous and adequate service.

[18.3.7.8 NMAC - Rp, SCC Rules 243.01, 243.03, and 243.04, 12-30-02; A, 1-1-05]]

**18.3.7.9           CONTENTS OF ANNUAL REPORT:** The annual report shall include:

- A.**       the motor carrier's operating authority number;
- B.**       the motor carrier's name;
- C.**       the motor carrier's d/b/a name;
- D.**       the motor carrier's principal place of business;
- E.**       the motor carrier's business telephone number;
- F.**       the applicant's electronic mail address, if applicable;

- G.** the motor carrier's tax identification number;
  - H.** for motor carriers operating pursuant to a warrant, a list of equipment used in the motor carrier's operations if the motor carrier is using twenty-five (25) vehicles or less, or the motor carrier's written statement certifying the number of vehicles in use if the motor carrier is using more than twenty-five (25) vehicles;
  - I.** for motor carriers operating pursuant to a certificate or a permit,
    - (1) a list of equipment used in the motor carrier's operations if the motor carrier is using twenty-five (25) vehicles or less, or the motor carrier's written statement certifying the number of vehicles in use if the motor carrier is using more than twenty-five (25) vehicles; and
    - (2) the names and addresses of any shareholders who own ten percent or more of the voting stock of the motor carrier if it is a corporation, or if the motor carrier is other than a corporation, a description of the form of ownership, the names and addresses of all principal owners, and the percentage ownership of each;
  - J.** for motor carriers operating pursuant to a permit, any changes in the contract for which the permit was issued;
  - K.** the motor carrier's written statement certifying that each piece of equipment it uses has passed an annual inspection within the preceding twelve (12) months;
  - L.** a list of the motor carrier's drivers;
  - M.** the motor carrier's written statement certifying that it has received a current MVD printout of the driving record of each driver it uses, employs or contracts with;
  - N.** the motor carrier's written statement certifying that it has received a current certificate of workers' compensation insurance or a written statement from the workers' compensation division that coverage is not required;
  - O.** an updated appointment of an agent for service of process; and
  - P.** the oath prescribed by subsection B of 18.3.7.8 NMAC.
- [18.3.7.9 NMAC - Rp, SCC Rule 243.02, 12-30-02; A, 1-1-05]

**18.3.7.10 CHANGE OF ADDRESS REPORTS:**

- A.** Every motor carrier shall notify the commission in writing of any change in the mailing address or street address or other physical locations of its business office or stationing points within ten (10) business days of the effective date of the change.
  - B.** No change of address will be permitted that has the effect of moving the motor carrier's operations to a location not permitted under its operating authority.
- [18.3.7.10 NMAC - Rp, SCC Rule 244.01, 12-30-02]

**18.3.7.11 ACCIDENT REPORTS:**

- A. Report required.** Every motor carrier shall report directly to the commission every accident which occurs in the course of the motor carrier's operations within the state, on either public or private property, that results in the death of a person; injury to a person that requires treatment by a physician; or damage to property belonging to the carrier or any other person to an apparent extent of one thousand dollars (\$1,000.00) or more. Property damage shall include damage to either vehicles or cargo.
  - B. Report form.** A motor carrier shall report each accident in writing on the uniform accident report form prescribed by the state of New Mexico. Accident report forms are available from the commission and from law enforcement agencies. The uniform accident report filed with the motor vehicle division will satisfy the requirements of this section if a copy of it is timely filed with the commission.
  - C. Time to file report.**
    - (1) In the case of an accident resulting in death, the report must be filed within forty-eight (48) hours of the accident.
    - (2) All other accident reports shall be filed no later than fifteen (15) days after the date the accident occurred.
    - (3) If a death results from the accident after the filing of a written accident report, the motor carrier shall file an amended report no later than fifteen (15) days after receiving notification of the death.
    - (4) If an accident results in the release of any hazardous matter, the motor carrier shall inform the New Mexico state police by telephone immediately.
- [18.3.7.11 NMAC - Rp, SCC Rule 244.02, 12-30-02]

**18.3.7.12 LOCATION OF RECORDS:** Every motor carrier shall maintain records at the motor carrier's principal place of business within the state. The commission may, on a showing of good cause, allow the records to be maintained at a location outside the state, provided the motor carrier demonstrates to the satisfaction of the commission that the records will be reasonably accessible for inspection.  
[18.3.7.12 NMAC - Rp, SCC Rule 241.02, 12-30-02]

**18.3.7.13 EQUIPMENT LIST:** This section does not apply to ambulance services.

**A.** Every motor carrier shall maintain at its principal place of business within the state a list of motor vehicles, used in its authorized operations. The list shall identify each motor vehicle by make, model, year, VIN number, license plate number, and other descriptive information sufficient for identification, and shall state whether the motor vehicle is leased or owned.

**B.** No motor carrier may use a motor vehicle in its authorized operations unless it is identified on the equipment list.

**C.** The motor carrier shall update the list within ten days of the date on which a motor vehicle is put into or taken out of service.

[18.3.7.13 NMAC - Rp, SCC Rule 241.04, 12-30-02; A, 1-1-05]

**18.3.7.14 MAINTENANCE, PRESERVATION, AND RETENTION OF RECORDS.**

**A.** Motor carriers operating pursuant to a certificate or permit shall maintain:

- (1) complete accounts;
- (2) records of all services performed for others, such as work orders, invoices, bills of lading, warehouse receipts, dispatch sheets, and claim registers;
- (3) records of numbers of runs made and numbers of passengers transported;
- (4) records of equipment, such as driver inspection reports, repair and maintenance records, equipment lists, titles and registration certificates;
- (5) driver qualification files;
- (6) drivers' records of duty status;
- (7) records and forms evidencing driver drug and alcohol testing;
- (8) copies of equipment leases or leases of certificates; and
- (9) records of all complaints indicating dissatisfaction with rates, service, safety, equipment or driving practices.

**B.** Motor carriers operating pursuant to a certificate or permit shall retain records for the previous three complete calendar years.

**C.** All required records are subject to inspection by the commission as provided in NMSA 1978 Sections 65-2A-4 and 65-2A-29, and shall be maintained so that they are reasonably accessible. A motor carrier operating pursuant to a certificate or permit shall take reasonable steps to protect required records from destruction and physical hazards. A motor carrier operating pursuant to a certificate or permit shall notify the commission if records are substantially damaged or destroyed before the end of the retention period.

**D.** If a motor carrier transfers its certificate or permit in accordance with these rules, the transferee of the certificate or permit shall maintain the records of the transferor as required by these rules.

[18.3.7.14 NMAC - Rp, SCC Rule 241.01, 12-30-02; A, 1-1-05]

**18.3.7.15 CLAIMS REGISTER:**

**A.** Every motor carrier operating pursuant to a certificate or permit shall maintain a claims register in which the carrier shall record every claim it receives for overcharge, personal injury, or property damage.

**B.** The record of each claim shall include the:

- (1) claim number,
- (2) date received,
- (3) amount claimed;
- (4) name of the claimant;
- (5) date and amount of the claim paid, or the date the claim was disallowed and the reasons for disallowance;

- (6) amount of salvage recovered, if any;
- (7) amount reimbursed by insurance companies or others; and
- (8) amount paid by the carrier.

[18.3.7.15 NMAC - Rp, SCC Rule 241.05, 12-30-02; A, 1-1-05]]

#### **18.3.7.16 ACCOUNTS:**

**A. Maintenance of accounts required.** Every motor carrier operating pursuant to a certificate or permit shall maintain a system of accounts in connection with its intrastate transportation business in New Mexico, and documentation in support of the accounts.

**B. Generally accepted accounting principles.** Every motor carrier operating pursuant to a certificate or permit shall maintain its accounts in conformity with generally accepted accounting principles (GAAP) issued by the financial accounting standards board.

**C. Verification of entries.** Every motor carrier operating pursuant to a certificate or permit shall document all accounting entries and shall file all documentation in an orderly and systematic manner. All expenditures shall be fully supported by vouchers, receipts, canceled checks, or other original memoranda. All revenues shall be supported by invoices or other original memoranda.

**D. Required documentation.** At a minimum, documentation shall include:

- (1) copies of all passenger lists;
- (2) copies of all trip sheets;
- (3) copies of all invoices, vouchers and statements supporting disbursements;
- (4) copies of receipts or memoranda with respect to all petty cash reimbursements;
- (5) all canceled checks;
- (6) all bank statements and deposit slips;
- (7) fuel records; and
- (8) daily dispatch records.

[18.3.7.16 NMAC - Rp, SCC Rules 242.01, 242.02, and 242.03, 12-30-02; A, 1-1-05]]

#### **HISTORY OF 18.3.7 NMAC**

##### **Pre-NMAC history.**

SCC 68-16, N.M. Motor Carrier Act, Rules and Regulations, effective Sept. 1, 1967, filed on 3-14-68;  
SCC 71-6, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1971, filed on 9-21-71;  
SCC 73-1, N.M. Motor Carrier Act, Rules and Regulations, filed on 6-14-73;  
SCC 74-1, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1973, filed on 2-5-74;  
SCC 75-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1975, filed on 4-17-75;  
SCC 75-3, N.M. Motor Carrier Act, Rules and Regulations (Rev.), effective Jan. 1, 1975, filed on 9-19-75;  
SCC 76-1, N.M. Motor Carrier Act, Rules and Regulations, effective April 1, 1976, filed on 4-15-76;  
SCC 77-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1977, filed on 1-25-77;  
SCCMC Rule No. 34, Report of Accident, filed on 3-5-82;  
SCC Rule 241, Records of Motor Transportation Entities, filed on 1-5-93;  
SCC Rule 242, Accounts, filed on 1-5-93;  
SCC Rule 243, Annual Reports, filed on 1-5-93;  
SCC Rule 244, Other Reports, filed on 1-5-93.

##### **History of repealed material.**

SCC Rule 241, Records of Motor Transportation Entities, filed on 1-5-93;  
SCC Rule 242, Accounts, filed on 1-5-93;  
SCC Rule 243, Annual Reports, filed on 1-5-93;  
SCC Rule 244, Other Reports, filed on 1-5-93.

**TITLE 18           TRANSPORTATION AND HIGHWAYS**  
**CHAPTER 3        MOTOR CARRIER GENERAL PROVISIONS**  
**PART 8            CHANGES IN CERTIFICATES AND PERMITS**

**18.3.8.1           ISSUING AGENCY:** New Mexico Public Regulation Commission.  
[18.3.8.1 NMAC - Rp, 18.3.8.1 NMAC, 1-1-05]

**18.3.8.2           SCOPE:**

**A.**       This rule applies to all motor carriers operating pursuant to a certificate or permit issued by the commission.

**B.**       This rule does not apply to the use of a certificate or permit as collateral for indebtedness of the owner of the certificate or permit.

[18.3.8.2 NMAC - Rp, 18.3.8.2 NMAC, 1-1-05]

**18.3.8.3           STATUTORY AUTHORITY:** NMSA 1978 Sections 8-8-4 and 65-2A-4.

[18.3.8.3 NMAC - Rp, 18.3.8.3 NMAC, 1-1-05]

**18.3.8.4           DURATION:** Permanent.

[18.3.8.4 NMAC - Rp, 18.3.8.4 NMAC, 1-1-05]

**18.3.8.5           EFFECTIVE DATE:** January 1, 2005, unless a later date is cited at the end of a section.

[18.3.8.5 NMAC - Rp, 18.3.8.5 NMAC, 1-1-05]

**18.3.8.6           OBJECTIVE:** The purpose of this rule is to implement NMSA 1978 Section 65-2A-14.

[18.3.8.6 NMAC - Rp, 18.3.8.6 NMAC, 1-1-05]

**18.3.8.7           DEFINITIONS:** See 18.3.1.7 NMAC.

[18.3.8.7 NMAC - Rp, 18.3.8.7 NMAC, 1-1-05]

**18.3.8.8           APPLICATION REQUIRED:** The following actions constitute changes in a certificate or permit requiring the prior approval of:

**A.**       the commission:

- (1) amendment of a certificate or permit;
- (2) lease of a certificate or permit;
- (3) voluntary transfer of a certificate or permit;
- (4) transfer by operation of law of a certificate or permit;
- (5) reinstatement of a certificate or permit following involuntary suspension;
- (6) transfer of control of a motor carrier;
- (7) cancellation of a certificate or permit;

**B.**       the director:

- (1) voluntary suspension of a certificate or permit; and
- (2) reinstatement of a certificate or permit following voluntary suspension.
- (3) change in the form of ownership of a certificate or permit;

[18.3.8.8 NMAC - Rp, 18.3.8.8 NMAC, 1-1-05]

**18.3.8.9           AMENDMENT OF A CERTIFICATE OR PERMIT:**

**A.       Application.** An applicant for amendment of a certificate or permit shall file:

(1) an application on the form prescribed by the director containing the information and documents required by 18.3.2.15 NMAC;

(2) copies of its current certificate or permit and all endorsements; and

(3) the fee required by NMSA 1978 Section 65-2A-36.

**B.       Procedure for commission review.** The commission shall review an application for amendment of an existing certificate or permit in accordance with 18.3.2.15 through 18.3.2.19 NMAC.



**C. Qualifying provisions.** If the commission finds that the applicant for amendment of a certificate or permit has met the statutory requirements in NMSA 1978 Section 65-2A-14, the commission shall issue an order conditionally approving the application. Then, unless the commission prescribes a different period, the applicant must, within ninety (90) days from the date of the order, comply with all qualifying provisions set forth in 18.3.2.21 NMAC and with any other qualifying provisions, terms, conditions, or limitations set forth by the commission in its order. If the applicant fails to timely comply with all qualifying provisions, the commission may dismiss the case without prejudice and close the docket.

**D. Issuance.** Within five (5) business days after the date the director certifies that the applicant has complied with all qualifying provisions, the commission shall issue an endorsement to the existing certificate or permit.

[18.3.8.9 NMAC - Rp, 18.3.8.9 NMAC, 1-1-05]

### **18.3.8.10 LEASE OF ALL OR PART OF A CERTIFICATE OR PERMIT:**

#### **A. Application.**

- (1) A lessor-applicant shall file:
  - (a) an application on the form prescribed by the director;
  - (b) copies of its current certificate or permit and all endorsements;
  - (c) a complete description of all operating equipment to be leased;
  - (d) a showing that the proposed lease is not being made to avoid any previously incurred taxes or legal obligations, or to circumvent any otherwise applicable requirements of these rules or the Motor Carrier Act; and
  - (e) a copy of the proposed lease, containing provisions:
    - (i) stating that the proposed lease may not go into effect until approved by the commission;
    - (ii) stating which party to the lease shall be responsible for complying with the qualifying provisions in 18.3.2.21 NMAC; and
    - (iii) specifying the term of the lease.
- (2) A lessee-applicant shall file:
  - (a) an application on the form prescribed by the director containing the information and documents required by 18.3.2.15 NMAC, except that the lessee-applicant shall not be required to provide the affidavits or other evidence required by Paragraph (11) of Subsection A of 18.3.2.15 NMAC to show that the service is required by the public convenience and necessity;
  - (b) an application for amendment of a certificate or permit if the lessee-applicant seeks to change the type of service or the territory to be served;
  - (c) an application for a change in a tariff if the lessee-applicant seeks to change the rates or schedules for service;
  - (d) a showing that the proposed lease is not being made to avoid any previously incurred taxes or legal obligations, or to circumvent any otherwise applicable requirements of these rules or the Motor Carrier Act; and
  - (e) the fee required by NMSA 1978 Section 65-2A-36.

**B. Procedure for commission review.** The commission shall review an application for lease of all or part of an existing certificate or permit in accordance with 18.3.2.16 through 18.3.2.20 NMAC.

**C. Qualifying provisions.** If the commission finds that the lessee-applicant for lease of a certificate or permit has met the statutory requirements in NMSA 1978 Section 65-2A-14, the commission shall issue an order conditionally approving an application for lease of all or part of a certificate or permit. Then, unless the commission prescribes a different period, the lessee-applicant must, within ninety (90) days from the date of the order, comply with all qualifying provisions set forth in 18.3.2.21 NMAC and with any other qualifying provisions, terms, conditions, or limitations set forth by the commission in its order. If the lessee-applicant fails to timely comply with all qualifying provisions, the commission may dismiss the case without prejudice and close the docket.

**D. Issuance.** Within five (5) business days after the date the director certifies that the lessee-applicant has complied with all qualifying provisions, the commission shall issue an order approving the application for lease of a certificate or permit.

[18.3.8.10 NMAC - Rp, 18.3.8.10 NMAC, 1-1-05]

**18.3.8.11 VOLUNTARY TRANSFER OF A CERTIFICATE OR PERMIT:**

**A. Application.**

- (1) The transferor-applicant shall file:
  - (a) an application on the form prescribed by the director;
  - (b) copies of its current certificate and all endorsements or permit;
  - (c) a joint affidavit on the form prescribed by the director, executed by the transferor-applicant and the transferee-applicant certifying that all accrued taxes, rents, wages of employees and all other indebtedness incident to the transferor-applicant's operations have been paid in full, or that the transferee-applicant will assume responsibility for paying them if they have not been paid in full;
  - (d) a complete description of all operating equipment to be transferred;
  - (e) a showing that the proposed transfer is not being made to avoid any previously incurred taxes or legal obligations, or to circumvent any otherwise applicable requirements of these rules or the Motor Carrier Act; and
  - (f) a tax clearance certificate from the New Mexico taxation and revenue department certifying that all state tax indebtedness incident to the transferor-applicant's operations has been paid in full.
- (2) The transferee-applicant shall file:
  - (a) an application containing the items required by 18.3.2.15 NMAC, except that the transferee-applicant shall not be required to provide the affidavits or other evidence required by Paragraph (11) of Subsection A of 18.3.2.15 NMAC to show that the service is required by the public convenience and necessity;
  - (b) an application for amendment of a certificate or permit if the transferee-applicant seeks to change the type of service and the territory to be served;
  - (c) an application for a change in a tariff if the transferee-applicant seeks to change the rates or schedules for service;
  - (d) a showing that the proposed transfer is not being made to avoid any previously incurred taxes or legal obligations, or to circumvent any otherwise applicable requirements of these rules or the Motor Carrier Act; and
  - (e) the fee required by NMSA 1978 Section 65-2A-36.

**B. Procedure for commission review.** The commission shall review an application for transfer of an existing certificate or permit in accordance with 18.3.2.16 through 18.3.2.20 NMAC.

**C. Qualifying provisions.** If the commission finds that the transferee-applicant for transfer of a certificate or permit has met the statutory requirements in NMSA 1978 Section 65-2A-14, the commission shall issue an order conditionally approving the application. Then, unless the commission prescribes a different period, the transferee-applicant must, within ninety (90) days from the date of the order, comply with all qualifying provisions set forth in 18.3.2.21 NMAC and with any other qualifying provisions, terms, conditions, or limitations set forth by the commission in its order. If the transferee-applicant fails to timely comply with all qualifying provisions, the commission may dismiss the case without prejudice and close the docket.

**D. Issuance.** Within five (5) business days after the date the director certifies that the transferee-applicant has complied with all qualifying provisions, the commission shall issue a new certificate or permit. [18.3.8.11 NMAC - Rp, 18.3.8.11 NMAC, 1-1-05]

**18.3.8.12 TRANSFER BY OPERATION OF LAW OF A CERTIFICATE OR PERMIT:** This section shall apply whenever the ownership of, or interest in, a certificate or permit passes to another by operation of law, as upon inheritance, bequest, order in bankruptcy or insolvency, execution sale, repossession upon default in performance of the terms of a loan, lease or executory sales contract, or otherwise than by voluntary transfer.

**A. Notice.** A transferee by operation of law shall file a notice of transfer by operation of law with the commission as provided in 18.3.1.11 NMAC. The personal representative, executor, administrator, receiver, trustee, sheriff or other representative or successor-in-interest of the owner of the operating authority shall sign the notice of transfer by operation of law. The notice of transfer by operation of law shall contain:

- (1) the name of the entity from whom the certificate of public convenience or necessity or permit was transferred;
- (2) the circumstances resulting in the transfer by operation of law; and
- (3) a certified copy of a court order or other document admissible as evidence pursuant to the New Mexico Rules of Evidence, establishing that the transfer by operation of law has occurred; if the document

appears to meet these requirements, the commission shall find that the transfer by operation of law has occurred.

**B. Which application appropriate.**

(1) **Disposal of certificate or permit.** If the transferee by operation of law does not wish to continue providing transportation services under the certificate or permit, the transferee by operation of law shall apply for voluntary suspension of the certificate or permit in accordance with 18.3.8.17 NMAC for the period of time needed to dispose of the certificate or permit.

(2) **Continued provision of transportation service.** If the transferee by operation of law wishes to continue providing transportation services under the certificate or permit, the transferee by operation of law shall file:

(a) an application for voluntary transfer of the certificate or permit in accordance with 18.3.8.11 NMAC, except that a transferee by operation of law shall not be required to provide the affidavits or other evidence required by Paragraph (11) of Subsection A of 18.3.2.15 NMAC to show that the service is required by the public convenience and necessity;

(b) an application for amendment of a certificate or permit if the transferee by operation of law seeks to change the type of service and the territory to be served;

(c) an application for a change in a tariff if the transferee by operation of law seeks to change the rates or schedules for service.

**C. Commission decision.**

(1) If the commission finds that the transferee by operation of law does not meet the requirements for transfer of a certificate or permit, the commission may provide a reasonable period of time for the transferee by operation of law to meet the standards or to dispose of the certificate or permit as provided in this rule.

(2) The commission may revoke a certificate or permit that has been transferred by operation of law if the transferee by operation of law fails to obtain commission approval of the transfer.  
[18.3.8.12 NMAC - Rp, 18.3.8.12 NMAC, 1-1-05]

**18.3.8.13 REINSTATEMENT OF A CERTIFICATE OR PERMIT FOLLOWING INVOLUNTARY SUSPENSION:**

**A. Application.** An applicant for reinstatement of a certificate or permit that was suspended by the commission pursuant to 18.3.2.30 NMAC may, upon expiration of the suspension period, file:

(1) an application on the form prescribed by the director;

(2) a copy of the commission order imposing involuntary suspension;

(3) a detailed statement describing how the motor carrier has remedied or will remedy each of the violations stated as grounds for involuntary suspension; and

(4) the fee required by NMSA 1978 Section 65-2A-36.

**B. Procedure for commission review.** The commission shall review an application for reinstatement of an existing certificate or permit following involuntary suspension in accordance with 18.3.2.16 through 18.3.2.20 NMAC.

**C. Qualifying provisions.** If the commission finds that the applicant for reinstatement of a certificate or permit following involuntary suspension has met the statutory requirements in NMSA 1978 Section 65-2A-27, the commission shall issue an order conditionally approving the application. Then, unless the commission prescribes a different period, the applicant must, within ninety (90) days from the date of the order, comply with all qualifying provisions set forth in 18.3.2.21 NMAC and with any other qualifying provisions, terms, conditions, or limitations set forth by the commission in its order. If the applicant fails to timely comply with all qualifying provisions, the commission may dismiss the case without prejudice and close the docket.

**D. Reissuance.** Within five (5) business days after the date the director certifies that the applicant has complied with all qualifying provisions, the commission will return the surrendered certificate or permit to the applicant.

[18.3.8.13 NMAC - Rp, 18.3.8.13 NMAC, 1-1-05]

**18.3.8.14 CHANGE IN THE FORM OF OWNERSHIP OF A CERTIFICATE OR PERMIT:**

**A. Application.** An applicant for a change in the form of ownership of a certificate or permit shall file:

- (1) an application on the form prescribed by the director;
- (2) the information and documents required by Paragraphs (1) through (8) and (17) of Subsection A of 18.3.2.15 NMAC for the proposed new entity;
- (3) a showing that the proposed change is not being made to avoid any previously incurred taxes or other legal obligations, or to circumvent any otherwise applicable requirements of these rules or the Motor Carrier Act; and
- (4) a statement that all assets will or will not be transferred to the new entity.

**B. Procedure for review by the director.** The director shall review an application for a change in the form of ownership of an existing certificate or permit in accordance with 18.3.2.16 NMAC.

**C. Approval.** If the director determines that only the form of ownership will change, the director shall approve the application for a change in the form of ownership. The new entity shall file:

- (1) proof of public liability insurance in the new entity's name in accordance with 18.3.3 NMAC, Financial Responsibility, and the insurance filing fee;
- (2) a copy of either a certificate of workers' compensation insurance or a certificate of exemption from the workers' compensation administration in the new entity's name; and
- (3) copies of all other documents required by 18.3.2.15 NMAC if they are different for the new entity.

**D. More than a change in form.** If the director determines that the change will entail more than a change in form of ownership, the director shall require the entity to file an application for voluntary transfer of a certificate or permit in accordance with 18.3.8.11 NMAC.

[18.3.8.14 NMAC - Rp, 18.3.8.14 NMAC, 1-1-05]

#### **18.3.8.15 TRANSFER OF CONTROL OF A MOTOR CARRIER:**

**A. Application.** An applicant for transfer of control of a motor carrier shall file:

- (1) an application on the form prescribed by the director;
- (2) the information and documents required by Paragraphs (1) through (10), (12), and 17 of Subsection A of 18.3.2.15 NMAC; and
- (3) a showing that the proposed transfer of control is not being made to avoid any previously incurred taxes or other legal obligations, or to circumvent any otherwise applicable requirements of these rules or the Motor Carrier Act;

**B. Procedure for commission review.** The commission shall review an application for transfer of control of a motor carrier in accordance with 18.3.2.16 through 18.3.2.20 NMAC.

**C. Standards.** The commission may authorize the transfer of control of a motor carrier at the request of the applicant acquiring control if:

- (1) the applicant is fit, willing and able to provide the authorized transportation services and to comply with the Motor Carrier Act and the rules of the commission;
- (2) the transfer of control of a motor carrier does not have the effect of destroying competition or creating a monopoly; and
- (3) the transfer of control of a motor carrier is not inconsistent with the public interest.

**D. Qualifying provisions; issuance.** If the commission finds that the applicant for transfer of control of a motor carrier has met the requirements set forth in Subsection C of this section, the commission shall issue an order approving the application. The motor carrier shall file copies of all documents required by 18.3.2.15 NMAC if they are different after transfer of control of the motor carrier.

[18.3.8.15 NMAC - N, 1-1-05]

#### **18.3.8.16 CANCELLATION OF A CERTIFICATE OR PERMIT:**

**A. Application.** An applicant for cancellation of all or part of its certificate or permit shall file:

- (1) an application on the form prescribed by the director;
- (2) copies of its current certificate or permit and all endorsements it seeks to cancel in whole or in part; and
- (3) the date on which the applicant proposes to terminate all or part of its service.

**B. Procedure for commission review.** The commission shall review an application for cancellation of an existing certificate or permit in accordance with 18.3.2.16 and 18.3.2.17 NMAC, except that the applicant shall not be required to mail notice pursuant to Subsection C of 18.3.2.17 NMAC.

**C. Issuance.** The commission may issue an order approving an application for cancellation of a certificate or permit if the commission finds that cancellation of the certificate or permit would not be adverse to the public interest.

**D. Disputed application.** If the need for cancellation is disputed, the commission shall give the applicant an opportunity to request a hearing.

[18.3.8.16 NMAC - Rp, 18.3.8.15 NMAC, 1-1-05]

#### **18.3.8.17 VOLUNTARY SUSPENSION OF A CERTIFICATE OR PERMIT:**

**A. Application.** An applicant for voluntary suspension shall file:

- (1) an application on the form prescribed by the director;
- (2) copies of its current certificate or permit and all endorsements it seeks to suspend;
- (3) a statement explaining:

(a) why such voluntary suspension is not adverse to the public interest, including whether any other motor carrier is capable of providing the service; and

(b) if applicable, why the applicant is not fit, willing, and able to render reasonably continuous and adequate service for the period of time for which voluntary suspension is requested;

- (4) the period of time for which the applicant seeks to suspend service; and

- (5) the fee required by NMSA 1978 Section 65-2A-36.

**B. Procedure for review by the director.** The director shall review an application for voluntary suspension of an existing certificate or permit in accordance with 18.3.2.16 and 18.3.2.17 NMAC, except that the applicant shall not be required to mail notice pursuant to Subsection C of 18.3.2.17 NMAC.

**C. Approval.** The director may approve an application for voluntary suspension of a certificate or permit if the director finds that the applicant meets the requirements of Section 65-2A-14 NMSA 1978.

**D. Disputed application.** If the director finds that voluntary suspension of a certificate or permit is adverse to the public interest, the director shall give the applicant an opportunity to request a hearing.

[18.3.8.17 NMAC - Rp, 18.3.8.16 NMAC, 1-1-05]

#### **18.3.8.18 REINSTATEMENT OF A CERTIFICATE OR PERMIT FOLLOWING VOLUNTARY SUSPENSION:**

**A. Application.** An applicant for reinstatement following voluntary suspension shall file:

- (1) an application on the form prescribed by the director;
- (2) a copy of the application for voluntary suspension approved by the director; and
- (3) a statement of the changes in circumstances and evidence that the applicant is fit, willing, and able to render reasonably continuous and adequate service if the reinstatement is approved; and
- (4) the fee required by NMSA 1978 Section 65-2A-36.

**B. Procedure for review by the director.** The director shall review an application for reinstatement of an existing certificate or permit following voluntary suspension in accordance with 18.3.2.16 and 18.3.2.17 NMAC, except that the applicant shall not be required to mail notice pursuant to Subsection C of 18.3.2.17 NMAC.

**C. Approval.** The director may approve an application for reinstatement of a certificate or permit following voluntary suspension if the director finds that it is not adverse to the public interest.

**D. Disputed application.** If the director finds that reinstatement following voluntary suspension is adverse to the public interest, the director shall give the applicant an opportunity to request a hearing.

[18.3.8.18 NMAC - Rp, 18.3.8.17 NMAC, 1-1-05]

#### **18.3.8.19 CONSOLIDATED CERTIFICATES AND PERMITS:**

**A. Amendment.** Any amendment of a certificate or permit granted by the commission will be evidenced by an endorsement to the owner's existing certificate or permit and not by issuance of a separate certificate or permit.

**B. Transfers.**

(1) A motor carrier, or a motor carrier in common control with another motor carrier, obtaining additional operating authority of a different kind or for a different territory by transfer of an existing certificate or permit from another carrier shall have its own existing certificate or permit endorsed to include the additional operating authority, thereby creating a single consolidated certificate or permit to be operated under the motor carrier's original NMPRC transportation number.

(2) A motor carrier obtaining both additional and duplicate operating authority by transfer of an existing certificate or permit from another carrier shall have its own existing certificate or permit endorsed to add only the additional operating authority, thereby creating a single consolidated certificate or permit to be operated under the transferee motor carrier's original NMPRC transportation number. The commission shall extinguish the parts of the transferred certificate or permit that duplicate operating authority already held by the transferee.

(3) A motor carrier transferring part of its certificate or permit to another carrier shall have its existing certificate or permit endorsed to exclude the part of the certificate or permit transferred.

(4) A motor carrier transferring all of its certificate or permit to another carrier shall have its NMPRC transportation number canceled.

[18.3.8.19 NMAC - Rp, 18.3.8.18 NMAC, 1-1-05]

**HISTORY OF 18.3.8 NMAC:**

**Pre-NMAC history.** The material in this rule was previously filed with the state records center as: SCC 68-16, N.M. Motor Carrier Act, Rules and Regulations, effective Sept. 1, 1967, filed on 3-14-68; SCC 71-6, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1971, filed on 9-21-71; SCC 73-1, N.M. Motor Carrier Act, Rules and Regulations, filed on 6-14-73; SCC 74-1, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1973, filed on 2-5-74; SCC 75-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1975, filed on 4-17-75; SCC 75-3, N.M. Motor Carrier Act, Rules and Regulations (Rev.), effective Jan. 1, 1975, filed on 9-19-75; SCC 76-1, N.M. Motor Carrier Act, Rules and Regulations, effective April 1, 1976, filed on 4-15-76; SCC 77-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1977, filed on 1-25-77; SCCMC Rule No. 20, Legal Entry, filed on 3-5-82; SCCMC Rule No. 21, Transfer of Certificates, filed on 3-5-82; SCCMC Rule No. 22, Lease of Certificates, filed on 3-5-82; SCCMC Rule No. 42, Consolidation of Certificates, filed on 3-5-82; SCC Rule 218, Changes in Operating Authority, filed on 1-5-93.

**History of Repealed Material:**

SCC Rule 218, Changes in Operating Authority (filed 1-5-93) repealed 12-30-2002.  
18.3.8 NMAC, Changes in Certificates of Public Convenience and Necessity and Permits (filed 12-10-2002) repealed 1-1-05.

**Other History:**

SCC Rule 218, Changes in Operating Authority (filed 1-5-93) was replaced by 18.3.8 NMAC, Changes in Certificates of Public Convenience and Necessity and Permits, effective 12-30-2002.  
18.3.8 NMAC, Changes in Certificates of Public Convenience and Necessity and Permits (filed 12-10-2002) was replaced by 18.3.8 NMAC, Changes in Certificates and Permits, effective 1-1-05.

**TITLE 18      TRANSPORTATION AND HIGHWAYS**  
**CHAPTER 3    MOTOR CARRIER GENERAL PROVISIONS**  
**PART 9        LEASING OF EQUIPMENT**

**18.3.9.1        ISSUING AGENCY:** New Mexico Public Regulation Commission.  
[18.3.9.1 NMAC - N, 12-30-02]

**18.3.9.2        SCOPE:** This rule applies to all household goods carriers and all motor carriers of persons (except charter services and commuter services) leasing equipment.  
[18.3.9.2 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.9.3        STATUTORY AUTHORITY:** NMSA 1978 Sections 8-8-4 and 65-2A-4.  
[18.3.9.3 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.9.4        DURATION:** Permanent.  
[18.3.9.4 NMAC - N, 12-30-02]

**18.3.9.5        EFFECTIVE DATE:** December 30, 2002, unless a later date is cited at the end of a section.  
[18.3.9.5 NMAC - N, 12-30-02]

**18.3.9.6        OBJECTIVE:** The purpose of this rule is to implement NMSA 1978 Section 65-2A-24.  
[18.3.9.6 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.9.7        DEFINITIONS:** See 18.3.1.7 NMAC.  
[18.3.9.7 NMAC - N, 12-30-02]

**18.3.9.8        APPLICATION AND PRIOR APPROVAL REQUIRED:**

**A.        Application.** Prior to leasing equipment, household goods carriers and motor carriers of persons (except charter services and commuter services) must file an application for approval of an equipment lease with the commission. The application shall include:

- (1) one (1) copy of each proposed lease (or equipment interchange agreement);
- (2) proof that each vehicle to be leased has passed an annual vehicle safety inspection in accordance with 49 CFR Part 396 within the preceding twelve (12) months;
- (3) evidence that the proposed lease does not circumvent any law or rule pertaining to the status, service, classification of facilities, or rates of motor carriers; and
- (4) the fee required by NMSA 1978 Section 65-2A-36.

**B.        Procedure.** The commission shall review applications for approval of equipment leases in accordance with 18.3.2.16 NMAC.

**C.        Qualifying provisions.** If the commission finds that the proposed lease does not circumvent any law or rule pertaining to the status, service, classification of facilities, or rates of motor carriers, as required by NMSA 1978 Section 65-2A-24, the commission shall issue an order conditionally approving the proposed equipment lease. Then the applicant must, within the timeframe set forth in the order, comply with any qualifying provisions, terms, conditions, or limitations set forth by the commission in its order. If the applicant fails to timely comply with all qualifying provisions, the commission may dismiss the case without prejudice and close the docket.

**D.        Approval.** Within five (5) business days after the date the director certifies that the applicant has complied with all qualifying provisions, the commission shall issue an order approving the equipment lease.

**E.        Disapproval.** If the commission finds that the proposed equipment lease circumvents any law or rule pertaining to the status, service, classification of facilities, or rates of motor carriers, the commission shall disapprove the proposed equipment lease.

[18.3.9.8 NMAC - Rp, SCC Rules 223.02, 223.03, and 223.05, 12-30-02; A, 1-1-05]

**18.3.9.9        REQUIREMENTS FOR EQUIPMENT LEASES:**

**A.        An equipment lease, including an equipment interchange agreement, shall be in writing and**

signed by both parties.

**B.** An equipment lease shall specifically describe the equipment to be leased.

**C.** Any misrepresentation in the terms of a proposed equipment lease or violation of the terms of any approved equipment lease shall be considered a violation of these rules and may result in revocation of commission approval of the equipment lease or other appropriate sanctions.

**D.** The lessee shall carry a copy of the equipment lease and the commission order approving the equipment lease in every leased motor vehicle.

**E.** The lessee shall be responsible for identifying the leased equipment as required by 18.3.4.12 NMAC for the duration of the lease and shall be responsible for removing all identification showing it as the operating motor carrier before relinquishing possession of the equipment.

**F.** Either party to an equipment lease may cancel the equipment lease by giving fifteen (15) days notice in writing to the other party and to the commission.

**G.** A motor carrier seeking to change the terms of an equipment lease must obtain the prior approval of the commission by submitting a copy of the proposed new lease to the commission and canceling the old lease in its entirety.

[18.3.9.9 NMAC - Rp, SCC Rules 223.06, 223.07, and 223.08, 12-30-02; A, 1-1-05]

#### **18.3.9.10 RESPONSIBILITY FOR COMPLIANCE WITH APPLICABLE LAW:**

**A.** If an equipment lease (or interchange agreement) is between two authorized motor carriers, the equipment lease shall specify which of the two authorized motor carriers will be responsible for complying with all applicable laws and these rules, including meeting the financial responsibility requirements prescribed in 18.3.3 NMAC, Financial Responsibility, and the safety requirements prescribed in 18.3.4 NMAC, Safety Requirements.

**B.** If the equipment lease is between an authorized motor carrier and a person who is not an authorized motor carrier, the equipment lease shall specify that the authorized motor carrier shall be responsible for complying with all applicable laws and these rules, including meeting the financial responsibility requirements prescribed in 18.3.3 NMAC, Financial Responsibility, and the safety requirements prescribed in 18.3.4 NMAC, Safety Requirements.

[18.3.9.10 NMAC - Rp, SCC Rules 223.06 and 223.07, 12-30-02; A, 1-1-05]

#### **HISTORY OF 18.3.9 NMAC**

**Pre-NMAC history.** The material in this rule was previously filed with the State Records Center as: SCC 68-16, N.M. Motor Carrier Act, Rules and Regulations, effective Sept. 1, 1967, filed on 3-14-68; SCC 71-6, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1971, filed on 9-21-71; SCC 73-1, N.M. Motor Carrier Act, Rules and Regulations, filed on 6-14-73; SCC 74-1, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1973, filed on 2-5-74; SCC 75-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1975, filed on 4-17-75; SCC 75-3, N.M. Motor Carrier Act, Rules and Regulations (Rev.), effective Jan. 1, 1975, filed on 9-19-75; SCC 76-1, N.M. Motor Carrier Act, Rules and Regulations, effective April 1, 1976, filed on 4-15-76; SCC 77-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1977, filed on 1-25-77; SCCMC Rule No. 24, Lease and Interchange, filed on 3-5-82; SCC Rule 223, Leasing and Interchange of Equipment, filed on 1-5-93.

#### **History of repealed material.**

SCC Rule 223, Leasing and Interchange of Equipment, filed on 1-5-93.



**TITLE 18       TRANSPORTATION AND HIGHWAYS**  
**CHAPTER 3     MOTOR CARRIER GENERAL PROVISIONS**  
**PART 10       PARENTAL RESPONSIBILITY**

**18.3.10.1       ISSUING AGENCY:** New Mexico Public Regulation Commission.  
[18.3.10.1 NMAC - N, 12-30-02]

**18.3.10.2       SCOPE:** This rule applies to the issuance, renewal, suspension or revocation of any operating authority issued by the commission.  
[18.3.10.2 NMAC - N, 12-30-02]

**18.3.10.3       STATUTORY AUTHORITY:** NMSA 1978 Sections 8-8-4 and 40-5A-9.  
[18.3.10.3 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.10.4       DURATION:** Permanent.  
[18.3.10.4 NMAC - N, 12-30-02]

**18.3.10.5       EFFECTIVE DATE:** December 30, 2002, unless a later date is cited at the end of a section.  
[18.3.10.5 NMAC - N, 12-30-02]

**18.3.10.6       OBJECTIVE:** The purpose of this rule is to implement the requirements of the Parental Responsibility Act, NMSA 1978 Sections 40-5A-1 et seq.  
[18.3.10.6 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.10.7       DEFINITIONS:** In addition to the definitions in NMSA 1978 Section 40-5A-3, as used in this rule:

- A.       commission** means the New Mexico public regulation commission;
- B.       holder** means a sole proprietorship or partnership that has an operating authority from the commission;
- C.       HSD** means the New Mexico human services department;
- D.       operating authority** means a certificate, permit, or warrant issued by the commission;
- E.       statement of compliance** means a certified statement from HSD stating that an applicant or holder is in compliance with a judgment and order for support.

[18.3.10.7 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.10.8       SANCTIONS:**

- A.**If an applicant is subject to, and not in compliance with, a judgment and order for support, the commission shall deny an application for an operating authority.
- B.**If a holder is subject to, and not in compliance with, a judgment and order for support, the commission shall have grounds for suspending or revoking the holder's operating authority.

[18.3.10.8 NMAC - N, 12-30-02]

**18.3.10.9       HSD-CERTIFIED LIST:** Upon receipt of an HSD-certified list of obligors not in compliance with a judgment and order for support, the director shall match the certified list of obligors against the current list of holders. Upon receipt of an application for an operating authority, the director shall match the applicant or holder against the current HSD-certified list. By the end of the month in which the HSD-certified list is received, the director shall report to HSD the names of any applicants and holders who are on the HSD-certified list and the action the director has taken with regard to such applicants and holders.

[18.3.10.9 NMAC - N, 12-30-02]

**18.3.10.10      INITIAL ACTION:**

- A.**Upon determination that an applicant or holder appears on the HSD-certified list, the director shall notify the applicant or holder by letter that such individual must provide the director with a statement of compliance within thirty (30) days of the date the director mailed the notification.

**B.** The notice letter to applicants and holders shall advise that failure to timely provide the statement of compliance shall result in commencement of a formal hearing before the commission to determine whether an application should be rejected or an operating authority suspended or revoked.  
[18.3.10.10 NMAC - N, 12-30-02]

**18.3.10.11 PROCEEDING TO REJECT APPLICATION OR SUSPEND OR REVOKE**

**OPERATING AUTHORITY:** If an applicant or holder fails to provide the statement of compliance, the director shall file and serve a complaint upon the applicant or holder. If the director 's complaint is due solely to the failure of an applicant or holder to comply with a judgment and order for support, and there are no additional grounds based on violations of the Motor Carrier Act or commission rules or orders, the complaint shall state:

**A.** the grounds for the director 's proposed rejection of the application or suspension or revocation of the operating authority; and

**B.** that a hearing shall be held before the commission on a date that is at least thirty (30) days after the date the complaint is personally served, unless the respondent applicant or holder provides the director with a statement of compliance prior to the hearing date.

[18.3.10.11 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.10.12 EVIDENCE AND PROOF:** In any hearing under subsection B of 18.3.10.11 NMAC, relevant evidence is limited to the accuracy or veracity of the listing of the applicant or holder's name on the HSD-certified list. The listing of the applicant's or holder's name on the HSD-certified list is conclusive evidence requiring the commission to reject the application or suspend or revoke the operating authority, and is rebuttable only with a statement of compliance. Upon presentation of the statement of compliance, the commission shall dismiss the complaint if it is based solely upon the applicant or holder's failure to comply with a judgment and order for support.

[18.3.10.12 NMAC - N, 12-30-02]

**18.3.10.13 ORDER:** When the commission rejects an application or suspends or revokes an operating authority solely because the applicant or holder is not in compliance with a judgment and order for support, the final order shall state that:

**A.** the respondent whose application has been rejected may reapply for an operating authority at any time by filing a statement of compliance and an application with the commission;

**B.** the respondent whose operating authority has been suspended may have its operating authority reinstated at any time by providing a statement of compliance to the commission; and

**C.** the respondent whose operating authority has been in revoked may reapply for an operating authority at any time by filing a statement of compliance and an application with the commission.

[18.3.10.13 NMAC - N, 12-30-02]

**HISTORY OF 18.3.10 NMAC**

**Pre-NMAC history.** The material in this rule was previously filed with the State Records Center as: SCC Rule 95-04-TR, Parental Responsibility Act Rule, filed on 10-18-95.

**History of repealed material.**

SCC Rule 95-04-TR, Parental Responsibility Act Rule, filed on 10-18-95.

**TITLE 18           TRANSPORTATION AND HIGHWAYS**  
**CHAPTER 3        MOTOR CARRIER GENERAL PROVISIONS**  
**PART 11           HOUSEHOLD GOODS CARRIERS**

**18.3.11.1           ISSUING AGENCY:** New Mexico Public Regulation Commission.  
[18.3.11.1 NMAC - N, 12-30-02]

**18.3.11.2           SCOPE:** This rule applies to all household goods carriers (HGCs) and household goods agents subject to the jurisdiction of the commission and is in addition to all other applicable requirements of these rules.  
[18.3.11.2 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.11.3           STATUTORY AUTHORITY:** NMSA 1978 Sections 8-8-4 and 65-2A-4.  
[18.3.11.3 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.11.4           DURATION:** Permanent.  
[18.3.11.4 NMAC - N, 12-30-02]

**18.3.11.5           EFFECTIVE DATE:** December 30, 2002, unless a later date is cited at the end of a section.  
[18.3.11.5 NMAC - N, 12-30-02]

**18.3.11.6           OBJECTIVE:** The purpose of this rule is to implement NMSA 1978 Section 65-2A-25.  
[18.3.11.6 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.11.7           DEFINITIONS:** In addition to the definitions in NMSA 1978 Section 65-2A-3 and 18.3.1.7 NMAC, as used in this rule:

**A.           accessorial services** means services such as packing, marking, unpacking, and appliance servicing, assembling, and disassembling that the shipper requests to be performed or are necessary because of special circumstances;

**B.           bill of lading** means the receipt for the shipper's household goods and the contract for their transportation;

**C.           binding estimate** means an agreement made in advance between the shipper and the HGC that guarantees the total cost of the move based on the quantities and services shown on the estimate;

**D.           exclusive use of a vehicle** means an agreement that the shipper's shipment will be moved by itself on the HGC's transporting motor vehicle;

**E.           expedited service** means an agreement between the shipper and the HGC to perform transportation by a set date in exchange for a higher charge;

**F.           guaranteed pickup and delivery service** means an agreement between the shipper and the HGC to pick up and deliver the shipment on specified dates that provides for the HGC to reimburse the shipper for delays;

**G.           inventory** means the detailed descriptive list of the shipper's household goods showing the number and condition of each item;

**H.           non-binding estimate** means the carrier's approximation of the cost of the move based on the estimated weight of the shipment and the accessorial services requested; a non-binding estimate is not binding on the carrier and final charges are based on the actual weight and tariff provisions in effect;

**I.           storage in transit** means temporary storage of the shipper's shipment pending further transportation.

[18.3.11.7 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.11.8           COST ESTIMATES:** A HGC may provide a cost estimate upon request of a prospective shipper. A cost estimate must be in writing and must clearly describe the shipment and all services requested. A HGC shall provide a copy of the estimate to the shipper.

**A.           Binding estimates of total cost.**

(1) A HGC may charge for providing a binding estimate.

(2) A shipper shall not be required to pay more than the amount of the binding estimate unless the HGC is asked or required to provide more services than those included in the binding estimate.

(3) If the shipper agrees to a binding estimate, the shipper must pay the charges due at the time of delivery. If the shipper cannot pay at the time the shipment is delivered, the HGC may place the shipment in storage at the shipper's expense until the charges are paid.

(4) Whenever a HGC provides a binding estimate and the shipper elects to use the services offered by the HGC, the HGC shall retain a copy of the binding estimate in the HGC's files for a period of three (3) years.

**B. Non-binding estimates of approximate cost.**

(1) A HGC shall not charge for providing a non-binding estimate.

(2) If the HGC provides a non-binding estimate, the shipper shall not be required to pay more than the amount of the original estimate, plus ten percent, at the time of delivery. The shipper shall then have thirty (30) days after delivery to pay any remaining charges.

(3) If the HGC is asked or required to provide more services than those included in the estimate, the HGC may demand full payment for the added services at the time of delivery.

(4) If the shipper cannot pay the required charges at the time the shipment is delivered, the HGC may place the shipment in storage at the shipper's expense until the charges are paid.

(5) Whenever a HGC provides a non-binding estimate and the shipper elects to use the services offered by the HGC, the HGC shall retain a copy of the non-binding estimate in the HGC's files for a period of three (3) years.

[18.3.11.8 NMAC - Rp, SCC Rule 268.03, 12-30-02]

**18.3.11.9 LIMITATIONS ON SERVICE OPTIONS:** A HGC may offer the following service options. However, a HGC may not charge for these or any other services unless the charge is included in the HGC's commission-approved tariff.

**A. Space reservation.** A HGC may not enter into an agreement for the shipper to pay for a minimum number of cubic or linear feet in the HGC's transporting vehicle, regardless of how much space is actually occupied by the shipment, when the shipment completely occupies the transporting vehicle.

**B. Expedited service.** A HGC may subject shipments weighing less than the minimums specified in this subsection to reasonable delay for consolidation aboard a single vehicle. When a shipper orders expedited service with a specified delivery date and the HGC is unable to consolidate the shipment with other shipments, the HGC may base transportation charges on the specified minimum weights.

(1) Shipments moving zero (0) to fifty (50) miles, three thousand (3,000) pounds minimum;

(2) Shipments moving fifty (50) miles to one hundred (100) miles, five thousand (5,000) pounds minimum;

(3) Shipments moving one hundred one (101) miles to two hundred (200) miles, eight thousand (8,000) pounds minimum;

(4) Shipments moving two hundred one (201) miles to three hundred (300) miles, ten thousand (10,000) pounds minimum;

(5) Shipments moving three hundred one (301) miles and up, twelve thousand (12,000) pounds minimum.

**C. Exclusive use of a vehicle.**

(1) A HGC may require a minimum charge for exclusive use of a vehicle.

(2) A HGC may not enter into an exclusive use of vehicle agreement with a shipper when the shipment completely occupies the transporting vehicle.

**D. Guaranteed pickup and delivery.** The liability provided by a guaranteed pickup and delivery agreement is in addition to and shall in no way limit the liability of the HGC otherwise provided by law.

**E. Storage in transit.**

(1) A shipper may place a shipment that is in transit in storage one or more times for an aggregate of no more than one hundred eighty (180) days.

(2) Upon the expiration of the one hundred eighty (180) day period, the storage facility shall be considered the final destination and all accrued charges shall become due and payable.

(3) The shipper or the shipper's agent may add to or remove goods from storage and the HGC shall adjust the charges to the new weight of the shipment.

**F. Accessorial services.** A HGC shall clearly describe on the bill of lading each accessorial service provided to a shipper.

**G. Advanced charges.** A HGC may bill a shipper for services not performed by the HGC but by a third party at the shipper's request only if such services are clearly described on the bill of lading and supported by a copy of the third party's invoice.

[18.3.11.9 NMAC - N, 12-30-02]

**18.3.11.10 BILL OF LADING:**

**A.** Before accepting household goods for transport, a HGC shall prepare and deliver to the shipper a complete bill of lading for every shipment it will transport.

**B.** A copy of the bill of lading should accompany the shipment at all times.

**C.** A HGC shall retain a copy of the bill of lading in its files for a period of three years.

**D.** All bills of lading shall comply with, be governed by, and have the consequences stated in the Uniform Commercial Code of New Mexico and any other applicable law.

[18.3.11.10 NMAC - Rp, SCC Rule 262.01, 12-30-02]

**18.3.11.11 CONTENTS OF THE BILL OF LADING:** Use of the uniform bill of lading meets the requirements of this rule. If another form is used, the bill of lading must contain at least the following information:

**A.** the number of the bill of lading;

**B.** the name, address, telephone number and NMPRC transportation number of the issuing HGC;

**C.** the name and address of any other HGCs participating in the shipment, if known;

**D.** the date the shipment was received by the HGC;

**E.** the name, address and, if available, telephone number of the shipper;

**F.** the points of origin and destination;

**G.** a description of the items tendered and received for transportation;

**H.** the weight, volume, or measurement of the items tendered and received for transportation, if applicable to the rating of the freight;

**I.** where applicable, the valuation of the shipment on which the bill of lading was issued;

**J.** if known, the amount of charges, method of payment and, if a COD shipment, the amount of the COD charges and the name of the person who is to pay the charges;

**K.** agreed pick-up and delivery date, if any; and

**L.** identification number assigned to the shipment by the HGC, if any.

[18.3.11.11 NMAC - Rp, SCC Rule 262.02, 12-30-02]

**18.3.11.12 INVENTORY:**

**A. Required.** A HGC shall prepare an inventory of each shipment prior to transport.

(1) The inventory shall consist of a description of each article in the shipment, shall list any damage or unusual wear, and shall indicate which containers were packed or crated by the HGC and which were packed or crated by the shipper.

(2) The HGC and the shipper shall each sign the inventory, and the shipper shall then be solely responsible for its accuracy.

(3) At the time the shipment is delivered, the shipper shall be given the opportunity to check the items delivered against the items listed on the inventory. If new damage is discovered, the shipper shall be given the opportunity to record it on the inventory.

(4) The HGC shall retain a legible copy of the inventory in its files for a period of three (3) years.

**B. Exception.** A shipper may waive in writing the requirement for an inventory if:

(1) the pickup and delivery points for the shipment are no more than thirty (30) miles apart;

(2) the shipment is billed at an hourly rate; and

(3) the shipper has exclusive use of the vehicle.

[18.3.11.12 NMAC - Rp, SCC Rule 268.04, 12-30-02]

**18.3.11.13 WEIGHING:**

- A. A HGC shall follow weighing practices designed to assure reasonable accuracy.
- B. Each time a weighing is performed the HGC shall obtain a weight ticket showing the date and place of weighing and the weight obtained. The person who performed the weighing shall sign the ticket.
- C. The weight of a shipment shall be the difference between the tare weight of the vehicle on which the shipment is loaded and the gross weight of the same vehicle after the shipment is loaded.
- D. While weighing, the HGC's vehicle shall have full fuel tanks and shall contain the equipment required to transport the shipment, including pads, dollies and ramps.
- E. Shipments weighing less than one thousand (1,000) pounds may be weighed separately on a certified scale.
- F. The shipper or its agent has the right to observe all weighings.
- G. A shipper or its agent may request a reweigh prior to the HGC unloading the shipment. Charges shall be based on the reweigh.
- H. No HGC shall charge for weighing or reweighing.

[18.3.11.13 NMAC - Rp, SCC Rule 268.05, 12-30-02]

**18.3.11.14 RECEIPT FOR DELIVERY:**

- A. A HGC shall provide the shipper with a receipt for delivery that includes at a minimum the bill of lading, a copy of the inventory and, if applicable, the weigh tickets.
- B. No HGC shall require a shipper to sign a receipt that relieves the HGC from all liability for loss or damage to the shipment.

[18.3.11.14 NMAC - N, 12-30-02]

**18.3.11.15 LIABILITY FOR LOSS AND DAMAGE:** A HGC is required to assume, at a minimum, liability for the released value of the shipper's goods.

- A. **Released value.**
  - (1) A HGC shall not charge for assuming liability for the released value of a shipment.
  - (2) A HGC shall specify in its tariff a rate per pound for released value liability.
  - (3) A HGC shall settle loss or damage claims based on the pound weight of the lost or damaged article multiplied by the tariffed rate.
  - (4) The shipper must declare acceptance of released value liability on the bill of lading.
- B. **Declared value.**
  - (1) A HGC shall specify in its tariff a rate per thousand dollars, or fraction thereof, for declared value liability.
  - (2) The shipper must declare a specific dollar amount for the declared value of the shipment.
  - (3) A HGC shall settle loss or damage claims based on the declared value of the lost or damaged items up to the maximum liability for the entire shipment.
  - (4) The shipper must declare acceptance of declared value liability on the bill of lading.
- C. **Replacement value.**
  - (1) A HGC shall specify in its tariff a rate per thousand dollars, or fraction thereof, for replacement value liability.
  - (2) The shipper must declare a specific dollar amount for the replacement cost value of the shipment.
  - (3) A HGC shall settle loss or damage claims based on the replacement cost of the lost or damaged items up to the maximum liability for the entire shipment.
  - (4) The shipper must declare acceptance of replacement cost liability on the bill of lading.
- D. **Articles of extraordinary value.** A HGC may, but is not required to, assume liability for documents, currency, jewelry, precious stones, accounts, bills, deeds, securities, notes, stamp or coin collections, letters, art, or other articles of peculiar inherent value, if the articles are listed on the bill of lading with a specific value for each article. If the HGC refuses to assume such liability, the HGC shall notify the shipper in writing before accepting such articles for shipment.

[18.3.11.15 NMAC - N, 12-30-02]

**18.3.11.16 CLAIMS:**

- A. Upon discovery of a claim for loss, damage, overcharge, or any other matter, the shipper shall

immediately notify the HGC in writing and give the HGC a reasonable opportunity to inspect the item that is the basis for the claim and the original package, if any. The claim shall be accompanied by the original or a true copy of the bill of lading.

**B.** A HGC shall not be responsible for loss or damage occurring:

(1) after the shipper or the shipper's agent has been given the opportunity to check the items delivered against the items listed on the inventory and has signed the inventory without noting any loss or damage;

(2) when the shipper directs the HGC to deliver the shipment to a place where the shipper or the shipper's agent is not present; or

(3) when the HGC is directed to load a shipment at a place where the shipper or the shipper's agent is not present.

**C.** A HGC shall be responsible for the repair or replacement of a lost or damaged article that is a matched piece or part of a set but shall not be liable for replacing the entire set.

**D.** When liability is measured by weight of a container or carton, and actual weights are unobtainable, the following items shall be deemed to have the following weights, unless specific evidence is presented to the contrary:

(1) dish-pack drum, 60 pounds;

(2) cartons less than 1 1/2 cu. ft., 20 pounds;

(3) cartons 1 1/2 cu. ft. to less than 3 cu. ft., 25 pounds;

(4) cartons 3 cu. ft. to less than 4 1/2 cu. ft., 30 pounds;

(5) cartons 4 1/2 cu. ft. to less than 6 cu. ft., 35 pounds;

(6) cartons 6 cu. ft. to less than 6 1/2 cu. ft., 45 pounds;

(7) cartons 6 1/2 cu. ft. and over, 50 pounds;

(8) wardrobe Carton, 50 pounds;

(9) mattress or box spring carton not exceeding 54" X 75", 60 pounds;

(10) mattress or box spring carton exceeding 54"X 75", 80 pounds;

(11) crib mattress carton, 22 pounds;

(12) cartons containing books, phonograph records, tapes or CDs, 50 pounds;

(13) cartons containing lampshades, 5 pounds; and

(14) items not identified on the inventory as to contents will be settled for the heaviest weight on the schedule for the container.

**E.** A shipper may file a complaint with the Commission as provided in 18.1.2 NMAC, Transportation Division Procedures, regarding any unsatisfied claims.

[18.3.11.16 NMAC - N, 12-30-02]

**18.3.11.17 NOTICE TO PROSPECTIVE SHIPPERS:** An HGC shall deliver to every shipper a written notice containing a statement in substantially the following form: "This motor carrier operates pursuant to NMPRC Operating Authority No. \_\_\_\_\_, issued by the New Mexico Public Regulation Commission, and the tariff approved by the Commission. If you have any questions or problems with the service provided by this company, contact the New Mexico Public Regulation Commission, Transportation Division, P.O. Box 1269, Santa Fe, New Mexico 87504-1269, 1-800-947-4722."

[18.3.11.17 NMAC - N, 12-30-02]

**18.3.11.18 HOUSEHOLD GOODS AGENTS:**

**A.** Any contract or agreement between a HGC and its agent shall be in writing and shall specify the territory in which the agent is to serve. Each party shall keep a copy of the contract as part of its records at its principal place of business.

**B.** Each HGC shall file a current, accurate list of its agents and their telephone numbers and physical locations and mailing addresses with its annual report. A HGC shall report any additions to or deletions from the list to the Commission as they occur.

**C.** A HGC's agent shall operate under the trade name of the HGC it represents, shall display the trade name of the HGC prominently in its advertising and shall, in all representations to the public, prominently display the name of the HGC and the fact that the agent is acting as the HGC's agent.

**D.** A HGC's agent shall prominently display the trade name of the HGC principle on all vehicles

owned by the agent and used in the pick-up and delivery of intrastate shipments.

**E.** A HGC's agent shall maintain at its place of business for inspection by the public copies of the tariffs under which the HGC operates.

**F.** A HGC's agent shall retain as part of its records for a period of three (3) years all documents relating to every shipment that it negotiates or handles, including but not limited to all estimates, contracts, bills of lading, waybills, and freight bills.

[18.3.11.18 NMAC - Rp, SCC Rule 268.09, 12-30-02]

**18.3.11.19 JOINT TRANSPORTATION BETWEEN HGCs:**

**A.** No HGC shall arrange any shipment to, from, or between points it is not authorized to serve.

**B.** An HGC may share in the revenue from a shipment only if it has authority to haul it. All charges for joint transportation shall be collected by the HGC domiciled in New Mexico who booked or transported it and that HGC shall account to all participating HGCs for their share of the charges.

**C.** Each bill of lading, route manifest, and freight bill shall bear the name of every HGC participating in the transportation of the shipment.

[18.3.11.19 NMAC - Rp, SCC Rule 268.07, 12-30-02]

**18.3.11.20 PROVISIONS REGARDING SPECIFIC TYPES OF ARTICLES:**

**A. Hazardous matter.** A HGC shall not accept or transport hazardous matter or articles that cannot be taken from the premises without damaging the articles or the premises. When a HGC reasonably believes articles or contents of packages must be inspected for compliance with this rule, the HGC shall make or cause such inspection, and may subsequently require sufficient evidence to determine the actual character of the articles. The shipper shall reimburse the HGC according to labor rates published in the HGC's tariff.

**B. Perishable articles.** A HGC shall not accept perishable articles or articles requiring refrigeration. A HGC may, in its discretion, accept frozen foods under the following conditions:

(1) the food is contained in a regular food freezer and is frozen solid at the time of loading;

(2) both the point of origin and the destination of the shipment are within New Mexico;

(3) no storage or delay is required in transit;

(4) delivery may be accomplished within twenty-four hours of the time of loading; and

(5) notwithstanding any other provision of this rule, the HGC shall in no case be liable for the condition or flavor of the food.

[18.3.11.20 NMAC - N, 12-30-02]

**18.3.11.21 IMPRACTICABLE OPERATIONS AND SERVICE:** No HGC shall be required to perform any service at a place which is inaccessible, or where the operation of motor vehicles or presence of personnel would subject either to unreasonable risk, loss or damage such as, but not limited to, road conditions, buildings, riots, strikes, war, civil disturbances, and all other hazards.

**A.** When, due to inaccessibility or otherwise, a HGC cannot perform pickup, delivery, or other services, the HGC will make the motor vehicle available at the nearest accessible point deemed reasonably safe for its operation and personnel.

**B.** When a HGC, due to inaccessibility or otherwise, cannot operate its motor vehicle to the point of pick-up or delivery, upon permission of the shipper or consignee the HGC may utilize smaller equipment and more labor to continue the move and may charge additionally as provided in the HGC's tariff.

**C.** When a shipper will not accept delivery at the nearest point of safe approach, the HGC may place the shipment in the nearest public warehouse or storage facility. At that time, the shipment shall be deemed delivered and all charges shall be due and payable immediately. For the purpose of applying this rule, transportation charges shall be computed from origination to the point where the shipment was originally tendered for delivery, and from there to the public warehouse or storage facility, on a continuous mileage or hourly basis, whichever is applicable.

[18.3.11.21 NMAC - N, 12-30-02]

**18.3.11.22 MISCELLANEOUS PROVISIONS:**

**A. Packing and marking.** The HGC shall properly pack fragile or breakable articles and mark the fragile character of the contents on the containers in distinct letters.

**B. Minimum shipment charge.** Unless otherwise provided, shipments moving on a weight or



time basis shall be subject to a minimum charge based on one thousand (1,000) pounds or one (1) hour, at rates provided in the HGC's tariff.

**C. Failure to make delivery.** When, through no fault of its own, the HGC is unable to locate a consignee at the address furnished by the shipper, or if the consignee is unable to accept or declines delivery, the HGC shall mail, telephone, or fax notification of failure to make delivery to the shipper or consignee and shall place the shipment in storage. If the shipper requests subsequent delivery, the HGC may assess charges for delivery from storage to the destination in addition to the transportation and storage charges already accrued.

**D. Pickup or delivery at warehouses and docks.** If a shipper orders pickup or delivery at a warehouse, dock or other point which charges a fee for pick up or delivery, the shipper will pay such fee in addition to paying the HGC's rates for loading or unloading at the warehouse dock, door, or other point accessible to the HGC's vehicle.

**E. Reasonable dispatch.** Each HGC accepting shipments of household goods shall transport the shipment with reasonable dispatch, within the time specified in the bill of lading. The HGC shall notify the shipper of any delay as soon as it becomes apparent to the HGC that it will be unable to comply with the anticipated delivery date.

[18.3.11.22 NMAC - Rp, SCC Rule 268.08, 12-30-02]

### **HISTORY OF 18.3.11 NMAC**

**Pre-NMAC history.** The material in this rule was previously filed with the State Records Center as: SCC 68-16, N.M. Motor Carrier Act, Rules and Regulations, effective Sept. 1, 1967, filed on 3-14-68; SCC 71-6, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1971, filed on 9-21-71; SCC 73-1, N.M. Motor Carrier Act, Rules and Regulations, filed on 6-14-73; SCC 74-1, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1973, filed on 2-5-74; SCC 75-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1975, filed on 4-17-75; SCC 75-3, N.M. Motor Carrier Act, Rules and Regulations (Rev.), effective Jan. 1, 1975, filed on 9-19-75; SCC 76-1, N.M. Motor Carrier Act, Rules and Regulations, effective April 1, 1976, filed on 4-15-76; SCC 77-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1977, filed on 1-25-77; SCC Rule 262, Bills of Lading and Route Manifests, filed on 1-5-93; SCC Rule 268, Household Goods Carriers, filed on 1-5-93.

### **History of repealed material.**

SCC Rule 262, Bills of Lading and Route Manifests, filed on 1-5-93;  
SCC Rule 268, Household Goods Carriers, filed on 1-5-93.

**TITLE 18       TRANSPORTATION AND HIGHWAYS**  
**CHAPTER 3     MOTOR CARRIER GENERAL PROVISIONS**  
**PART 12       TOWING SERVICES**

**18.3.12.1       ISSUING AGENCY:** New Mexico Public Regulation Commission.  
[18.3.12.1 NMAC - N, 12-30-02]

**18.3.12.2       SCOPE:** This rule applies to all towing services providing non-consensual tows and all repossession services using towing equipment and is in addition to all other applicable requirements of these rules.  
[18.3.12.2 NMAC - Rp, SCC Rule 267.01, 12-30-02]

**18.3.12.3       STATUTORY AUTHORITY:** NMSA 1978 Sections 8-8-4 and 65-2A-4.  
[18.3.12.3 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.12.4       DURATION:** Permanent.  
[18.3.12.4 NMAC - N, 12-30-02]

**18.3.12.5       EFFECTIVE DATE:** December 30, 2002, unless a later date is cited at the end of a section.  
[18.3.12.5 NMAC - N, 12-30-02]

**18.3.12.6       OBJECTIVE:** The purpose of this rule is to establish requirements for towing services subject to the limitations in 49 U.S.C. 14501.  
[18.3.12.6 NMAC - N, 12-30-02]

**18.3.12.7       DEFINITIONS:** In addition to the definitions in NMSA 1978 Section 65-2A-3 and 18.3.1.7 NMAC, as used in this rule:

- A.       abandoned motor vehicle** has the meaning given in NMSA 1978 Section 66-1-4.1;
  - B.       MVD** means the motor vehicle division of the New Mexico taxation and revenue department;
  - C.       normal business hours** means nine consecutive hours from 8:00 a.m. to 5:00 p.m. on every weekday excluding holidays;
  - D.       owner** means a person who holds legal title to a motor vehicle or a person legally entitled to possession of the motor vehicle;
  - E.       proof of ownership** means a certificate of title or evidence of current registration of a motor vehicle and sufficient other documentation to identify an individual as the person described in the documents or as the person's agent;
  - F.       storage** means the safekeeping of motor vehicles entrusted to the custody of a towing service;
  - G.       unclaimed motor vehicle** has the meaning given in NMSA 1978 Section 66-1-4.18.
- [18.3.12.7 NMAC - Rp, SCC Rule 202.03, 12-30-02; A, 1-1-05]

**18.3.12.8       MINIMUM EQUIPMENT STANDARDS:**

- A.       A towing service shall be equipped with only those winches and towing equipment that have been produced and constructed by a manufacturer of such equipment that regularly produces winches and towing equipment of guaranteed quality.**
  - B.       The director may approve the use of non-guaranteed quality winches or towing equipment if the owner submits an application for use of such equipment, accompanied by a verified statement from a reputable testing laboratory regularly engaged in the testing of the same equipment certifying that the capacity of the winch or towing equipment is not less than that mandated for the class of tow truck with which it will be used. The towing service shall bear all costs of testing and certification.**
- [18.3.12.8 NMAC - Rp, SCC Rule 267.03, 12-30-02]

**18.3.12.9       CLASSIFICATION OF TOWING EQUIPMENT:** The standards for each class of towing service shall be determined solely by the manufacturer's specifications for the capabilities of tow and vehicle carrier trucks and towing equipment.

- A. Class A - operating authority for towing up to 8,000 pounds;
- B. Class B - operating authority for towing between 8,001 and 12,000 pounds;
- C. Class C - operating authority for towing between 12,001 and 25,000 pounds;
- D. Class D - operating authority for towing 25,001 pounds and over.

[18.3.12.9 NMAC - Rp, SCC Rule 267.04, 12-30-02]

**18.3.12.10 CLASS A TOWING EQUIPMENT:** A Class A towing service shall maintain equipment adequate to transport motor vehicles, provided that the total gross weight of the vehicle, special equipment, special bodies and lading shall not exceed 8,000 pounds.

- A. **Tow truck specifications.**
  - (1) GVW rating of not less than 10,000 pounds;
  - (2) Minimum of 60" cab to axle length;
  - (3) Automatic or manual transmission;
  - (4) Dual rear wheels.
- B. **Towing equipment specifications.**
  - (1) Lifting capacity of not less than four (4) tons;
  - (2) Winching capacity of not less than four (4) tons, single line pull;
  - (3) 3/8" cable for winch;
  - (4) Tow bar, cradle, sling attachment, underreach, or roll-back vehicle carrier.
- C. **Vehicle carrier truck specifications.**
  - (1) GVW of not less than 10,000 pounds;
  - (2) Minimum of 96" cab to axle length;
  - (3) Dual rear wheels;
  - (4) Automatic or manual transmission.
- D. **Vehicle carrier bed specifications.**
  - (1) Minimum of 17' of length;
  - (2) Winching capacity of not less than four (4) tons;
  - (3) 3/8" cable for winch.

[18.3.12.10 NMAC - Rp, SCC Rule 267.05, 12-30-02; A, 1-1-05]

**18.3.12.11 CLASS B TOWING EQUIPMENT:** A Class B towing service shall maintain equipment adequate to transport passenger cars, trailers, semi-trailers, trucks and truck-tractors, provided that the total gross weight of vehicle, special equipment, special bodies and lading shall exceed 8,001 pounds, but shall not exceed 12,000 pounds. Unless otherwise specifically restricted by its operating authority, a Class B towing service may also render Class A service but must charge the tariffed rates for Class A service when it does so and must use Class B equipment.

- A. **Tow truck specifications.**
  - (1) GVW rating of not less than 11,000 pounds;
  - (2) Minimum of 60" cab to axle length;
  - (3) Dual rear wheels;
  - (4) Automatic or manual transmission.
- B. **Towing equipment specifications.**
  - (1) Lifting capacity of not less than eight (8) tons;
  - (2) Winching capacity of not less than eight (8) tons;
  - (3) 3/8" cable for winch;
  - (4) Tow bar, cradle, or sling attachment, underreach, or roll-back vehicle carrier.
- C. **Vehicle carrier truck specifications.**
  - (1) GVW of not less than 14,000 pounds;
  - (2) Minimum of 108" cab to axle length;
  - (3) Dual rear wheels;
  - (4) Automatic or manual transmission.
- D. **Vehicle carrier bed specifications.**
  - (1) Minimum of 17' of length;
  - (2) Winching capacity of not less than four (4) tons;

- (3) 3/8" cable for winch.

[18.3.12.11 NMAC - Rp, SCC Rule 267.06, 12-30-02]

**18.3.12.12 CLASS C TOWING EQUIPMENT:** A Class C towing service shall maintain equipment adequate to transport trailers, semi-trailers, trucks, truck-tractors and other vehicles, provided that the total gross weight of the vehicle, special equipment, special bodies and lading shall exceed 12,001 pounds, but shall not exceed 25,000 pounds. Unless otherwise specifically restricted by its operating authority, a Class C towing service may also render Class A or Class B service but must charge the tariffed rates for Class A or Class B service when it does so and must use Class C equipment.

**A. Tow truck specifications.**

- (1) GVW rating of not less than 25,000 pounds;
- (2) Dual rear wheels;
- (3) Automatic or manual transmission;
- (4) Full air brakes, constructed so as to lock power wheels upon air failure.

**B. Towing equipment specifications.**

- (1) Lifting capacity of not less than ten (10) tons;
- (2) Combined winching capacity of not less than ten (10) tons;
- (3) 7/16" cable for winch;
- (4) Tow bar, cradle or sling attachment, underreach, or roll-back vehicle carrier.

**C. Use of lowboy.** A towing service may use a tractor to tow a trailer when the trailer is part of a damaged or disabled unit. A towing service may use a lowboy when a tractor, trailer, or other Class C vehicle cannot be towed by a tractor. A towing service may transport the contents of a damaged or disabled unit by means of a carrier or trailer when appropriate.

[18.3.12.12 NMAC - Rp, SCC Rule 267.07, 12-30-02]

**18.3.12.13 CLASS D TOWING EQUIPMENT:** A Class D towing service shall maintain equipment adequate to transport trailers, semi-trailers, trucks, truck-tractors and other vehicles, provided that the total gross weight of the vehicle, special equipment, special bodies and lading shall exceed 25,001 pounds. Unless otherwise specifically restricted by its operating authority, a Class D towing service may also render Class A, Class B, or Class C service but must charge the tariffed rates for Class A or Class B or Class C service when it does so and must use Class D equipment.

**A. Tow truck specifications.**

- (1) GVW rating of not less than 49,000 pounds;
- (2) Manual transmission;
- (3) Dual axle (tandem) rear wheels;
- (4) Minimum of 120" cab to axle length;
- (5) Full air brakes constructed so as to lock power wheels upon air failure.

**B. Towing equipment specifications.**

- (1) Lifting capacity of not less than twenty-five (25) tons;
- (2) Combined winching capacity of not less than twenty-five (25) tons;
- (3) 5/8" cable for winch;
- (4) Tow bar, cradle or sling attachment, underreach, or roll-back vehicle carrier.

**C. Use of lowboy.** A towing service may use a tractor to tow a trailer when the trailer is part of a damaged or disabled unit. A towing service may use a lowboy when a tractor, trailer, or other Class D vehicle cannot be towed by a tractor. A towing service may transport the contents of a damaged or disabled unit by means of a carrier or trailer when appropriate.

[18.3.12.13 NMAC - Rp, SCC Rule 267.08, 12-30-02]

**18.3.12.14 MOVING MOTOR VEHICLES:**

**A. Written authorization required.**

(1) **Damaged or disabled motor vehicles.** No towing service shall attach hoisting or towing devices or move, tow or molest in any way, any motor vehicle which has been damaged or disabled in an accident without having first obtained written authorization from a law enforcement officer, except:

- (a) **of necessity;**

(i) when no law enforcement officer is available within a period of three (3) or more hours; and

(ii) the accident or abandonment has occurred at a point on the highway which may be dangerous to other motor vehicles using the highway and it is not possible to detour other motor vehicles around the damaged or disabled motor vehicle; the motor vehicle shall be moved only the distance necessary to remove the hazard to other motor vehicles using the highway;

(b) **by order:** when a law enforcement officer explicitly orders a towing service to tow the motor vehicle without written authorization; the towing service shall obtain the name of the officer ordering the tow and the agency for which he is employed.

(2) **Abandoned motor vehicles.** No towing service shall attach hoisting or towing devices or move, tow or molest in any way, any motor vehicle which a New Mexico law enforcement agency has determined has been abandoned on public or private property or has deemed abandoned pursuant to NMSA 1978 Section 66-7-350, without having first obtained written authorization from:

(a) a law enforcement officer if the motor vehicle is abandoned on public property; or

(b) the owner or agent of private property if the motor vehicle is abandoned on private property; written authorization shall include the name of the owner of the property, the name of the agent of the property if different, the location of the private property, the amount of time the motor vehicle has been on the private property, a description of the vehicle, and the date and time the towing service removed the vehicle from the private property.

(3) **Motor vehicles whose driver has been arrested.** No towing service shall attach hoisting or towing devices or move, tow or molest in any way, any motor vehicle when a law enforcement officer has arrested the driver without having first obtained written authorization from a law enforcement officer.

(4) **Illegally parked motor vehicles.** No towing service shall attach hoisting or towing devices or move, tow or molest in any way, any motor vehicle illegally parked without having first obtained written authorization from:

(a) a law enforcement officer if the motor vehicle is illegally parked on public property; or

(b) the owner or agent of the private property if the motor vehicle is illegally parked on private property; written authorization shall include the name of the owner of the property, the name of the agent of the property if different, the location of the private property, the amount of time the motor vehicle has been on the private property, a description of the vehicle, and the date and time the towing service removed the vehicle from the private property.

**B. Additional requirements.** When towing motor vehicles, a towing service shall:

(1) ensure that at least two wheels of the motor vehicle, front or rear, are clear of the highway;

(2) use a cradle or bar to provide a rigid space between the motor vehicle and the tow truck; and

(3) use a cradle or rigid bar without lifting the front or rear wheels if the total gross weight of the motor vehicle, including lading, exceeds ten thousand (10,000) pounds.

**C. Prohibitions.** A towing service shall not:

(1) transport a motor vehicle of any type by pushing;

(2) transport a disabled motor vehicle on a dolly or other wheeled auxiliary device, except when the auxiliary device is specifically designed for, and used only for, the towing of disabled motor vehicles;

(3) use a wheeled auxiliary device unless it is necessary to prevent further mechanical damage to the motor vehicle being moved;

(4) use a wheeled auxiliary device unless the nature of the existing damage prohibits moving the motor vehicle in any other way.

[18.3.12.14 NMAC - Rp, SCC Rule 267.09, 12-30-02; A, 1-1-05]

**18.3.12.15 SECUREMENT:** A towing service shall secure every towed motor vehicle to the towing vehicle in accordance with 49 CFR 393, subpart F, Coupling Devices and Towing Methods, and subpart I, Protection Against Shifting and Falling Cargo.

[18.3.12.15 NMAC - N, 12-30-02]

**18.3.12.16 USE OF DOLLY OR SUPPLEMENTARY WHEELS:**

**A.** A towing service shall not use a wheeled auxiliary device when such use could jeopardize the safety of the public.

**B.** Only Class A and Class B towing services may use dollies or supplementary wheels and then

only when necessary.

**C.** Class C and Class D towing services may use converter dollies when necessary to transport Class C or Class D motor vehicles.

**D.** A towing service may use a dolly when both ends of the motor vehicle to be towed are damaged or it is necessary to prevent further damage.

[18.3.12.16 NMAC - Rp, SCC Rule 267.10, 12-30-02; A, 1-1-05]

**18.3.12.17 DISCONNECTION OF DRIVELINE:** A towing service may disconnect or remove the driveline from a motor vehicle to be towed when:

**A.** it is necessary to prevent mechanical damage to the motor vehicle; or

**B.** the motor vehicle's front end is so damaged, or for some other reason, it cannot be towed by lifting the rear end.

[18.3.12.17 NMAC - Rp, SCC Rule 267.11, 12-30-02]

**18.3.12.18 SAFETY CONSIDERATIONS:**

**A. Unsafe conditions.** A towing service is not obligated to transport shipments when, in the service's judgment, weather or road conditions make it impracticable or unsafe to operate.

**B. Passengers prohibited.** No person, other than an employee of the towing service, shall ride in a disabled motor vehicle while it is being transported.

**C. Chains or cable across highway.** A towing service shall not stretch or place any motor vehicles, cables or chains across any highway unless and until flagmen are placed a minimum distance of three hundred (300) feet from the obstruction in each direction along the highway to stop or warn approaching traffic. A towing service shall equip flagmen with red flags during daylight hours and electric lanterns with red lights during hours of darkness.

[18.3.12.18 NMAC - Rp, SCC Rule 267.12, 12-30-02]

**18.3.12.19 SAFETY EQUIPMENT REQUIREMENTS:** All towing services must maintain the following safety equipment on each tow truck at all times for the described use:

**A.** flashing blue, amber or a combination of both colors of lights, front and rear, which shall be in operation whenever a towing service is standing on a roadway for the purpose of removing a motor vehicle and at all times while transporting a motor vehicle;

**B.** stop, tail, and turn signals on any motor vehicle in tow that can be operated from the towing vehicle;

**C.** spot lights that are capable of lighting the scene of disability after dark and additional spotlights or work lights positioned behind the cab of the towing service that can be used to illuminate the motor vehicle being serviced;

**D.** one (1) hand axe;

**E.** one (1) wrecking bar at least four (4) feet in length;

**F.** at least one (1) broom, one (1) shovel, and one (1) bag or container for removal of broken glass and debris from highway;

**G.** one (1) ten (10) unit type first-aid kit;

**H.** at least three (3) triangle-type reflectors;

**I.** at least six (6) twenty-minute flares;

**J.** at least four (4) red signal flags (minimum dimensions - two feet by two feet (2' x 2')); and

**K.** at least one (1) charged fire extinguisher having a minimum capacity of ten (10) pounds of dry chemical capable of extinguishing Class A, B and C fires.

[18.3.12.19 NMAC - Rp, SCC Rule 267.13, 12-30-02]

**18.3.12.20 DEADHEAD MILEAGE:** A towing service shall use deadheading only when it is not towing a motor vehicle to its base of operation or to a storage facility. A towing service shall calculate deadhead miles as total miles less loaded miles.

**A. Total mileage calculation.** Total mileage shall equal the sum of:

(1) the miles from the base of operation to the loading pick up point;

(2) the miles from the loading pick-up point to the destination; and

(3) the miles from the destination back to the original base of operation.

**B. Loaded miles calculation.** Loaded miles shall equal the number of miles from the loading pick-up point to the destination.

**C. When charges optional.** A towing service may, but is not required to, assess deadhead charges during normal business hours and within municipal limits.

**D. Excess deadhead charges.** A towing service shall assess excess deadhead charges for the entire distance when it is called to pull a stuck motor vehicle out of ice, snow, mud, or sand. Excess deadhead charges shall be in addition to:

(1) tariffed charges for the first mile or less, if the service can be rendered within thirty (30) minutes; or

(2) hourly charges for accessorial services, if more than thirty (30) minutes is required to render the service.

[18.3.12.20 NMAC - Rp, SCC Rule 267.15, 12-30-02]

**18.3.12.21 TOWING MULTIPLE MOTOR VEHICLES IN ONE TRIP:** When a towing service tows two or more disabled motor vehicles during one trip, it shall charge for the second and succeeding motor vehicles the day or night charge for the first mile or less, determined by the hour the service is requested, plus the deadhead mileage charge for each vehicle, provided that a towing service may not bill for the same mileage for unrelated tows.

[18.3.12.21 NMAC - Rp, SCC Rule 267.19, 12-30-02]

**18.3.12.22 ALTERED, MUTILATED, OR MISSING VIN:** A towing service must notify the local law enforcement agency or the New Mexico State Police in writing as soon as it discovers an altered, mutilated, or missing VIN on a motor vehicle in its custody, unless the motor vehicle has been impounded by a law enforcement officer aware of the altered, mutilated, or missing VIN.

[18.3.12.22 NMAC - Rp, SCC Rule 267.20, 12-30-02]

**18.3.12.23 STORAGE FACILITIES:** Towing service includes the storage of motor vehicles. Towing service begins when the motor vehicle is entrusted to the towing service and ends when the towing service delivers the motor vehicle to the owner or the owner's agent. Storage begins when the motor vehicle arrives at the storage facility and ends when the motor vehicle leaves the storage facility.

**A.** A towing service must maintain at least one of the following classes of storage facility:

(1) Type 1 - a fenced and locked area;

(2) Type 2 - a fenced, lighted, and locked area; or

(3) Type 3 - an enclosed, roofed and locked structure.

**B.** A towing service must either be located at the storage facility or must have a person working at the storage facility during normal business hours who is able to provide the services specified in subsection A and paragraphs (1) and (2) of subsection B of 18.3.12.24 NMAC.

[18.3.12.23 NMAC - Rp, SCC Rule 267.21, 12-30-02; A, 1-1-05]

**18.3.12.24 INSPECTION AND RELEASE OF TOWED MOTOR VEHICLES:**

**A. Motor vehicles ordered held for investigation.** If a law enforcement agency orders a towing service to hold a motor vehicle for investigation, the towing service shall not, without specific written authorization of the law enforcement agency:

(1) allow the owner of the motor vehicle, the owner's agent, or a lienholder to inspect the motor vehicle or remove proof of ownership or personal property from the motor vehicle; or

(2) release the motor vehicle to any person, including the owner, the owner's agent, or a lienholder.

**B. Motor vehicles not held for investigation.**

(1) If a law enforcement agency does not order a motor vehicle to be held for investigation, the towing service shall allow the owner, the owner's agent, or the lienholder of the motor vehicle without charge, during normal business hours, to:

(a) inspect the motor vehicle;

(b) remove proof of ownership from the motor vehicle; or

(c) remove personal property from the motor vehicle if he or she presents proof of

ownership.

(2) The owner, the owner's agent, or the lienholder of a stored motor vehicle that has not been ordered held for investigation may obtain possession of the motor vehicle by paying all just and reasonable charges and providing proof of ownership:

(a) as a matter of right, during normal or extended business hours; or

(b) at the option of the towing service, during non-business hours; if a towing service elects to deliver a motor vehicle during non-business hours, it must assess the tariffed administrative charge for such delivery.

C. If the owner, the owner's agent, or the lienholder of a motor vehicle disputes any of the charges for towing or storage, or feels the motor vehicle was illegally towed, the towing service shall furnish to the disputant a written statement containing the name, address, and telephone number of the consumer relations division of the commission and advising the disputant that he or she may file a complaint with the commission as provided by applicable commission rules. The written statement shall be in substantially the following form: "If you have a dispute with the towing service regarding charges for towing or storage, and are not satisfied with the solution offered by the towing service, you may file a complaint with the Consumer Relations Division of the Public Regulation Commission in writing at P.O. Box 1269, Santa Fe, New Mexico, 87504-1269 or by calling the Commission's toll-free number 1-800-947-4722."

[18.3.12.24 NMAC - Rp, SCC Rule 267.23, 12-30-02; A, 1-1-05]

**18.3.12.25** [Reserved]

[18.3.12.25 NMAC - Rp, SCC Rule 267.22, 12-30-02; Repealed, 1-1-05]

**18.3.12.26 NOTICE TO OWNERS OF TOWED MOTOR VEHICLES:**

**A. Identification of owner.**

(1) **On site.** Before a towing service tows a motor vehicle, it shall request ownership information from the authorizing law enforcement officer on scene.

(2) **From the storage facility.** If a towing service has not already obtained ownership information on a motor vehicle, it shall obtain the name and address of the registered owner and any lienholder of the motor vehicle.

(a) If the motor vehicle has New Mexico plates, the towing service shall request ownership information within five (5) business days after the motor vehicle comes into its possession.

(b) If the motor vehicle has out-of-state plates or the towing service has other reason to believe that the motor vehicle is registered in a state other than New Mexico, the towing service must request the information from the appropriate agency of that state within five (5) business days after the motor vehicle comes into its possession.

**(3) Documentation.**

(a) **Information requested from the Motor Vehicle Division of any state.** A towing service shall retain in its files a photocopy of MVD Form 10705, Vehicle or Hull Identification Number Verification, indicating the date ownership and lienholder information was requested from MVD and a copy of any document received from MVD in response.

**(b) Information requested from other sources.**

(i) **Electronically.** A towing service shall print out and retain in its files a copy of the ownership and lienholder information shown on the computer screen, notated with the name of the person making the request and the date and time the request was made.

(ii) **By other means.** A towing service shall maintain a record in its files indicating the name of the person requesting ownership and lienholder information, the source from which the information was requested, and the date and time the information was requested, and a copy of any document received from the source in response.

**B. Notification of owner.**

(1) Within two (2) business days of receiving information identifying the registered owner or any lienholder of the motor vehicle, the towing service shall notify the registered owner and the lienholder, if any, that the towing service has the motor vehicle in its possession.

(2) The towing service shall use MVD Form 10058, Notice of Mechanic's or Landowner's Lien, and shall mail the notice by certified mail, return receipt requested, to the registered owner and the lienholder, if any.



(3) This requirement applies even if the VIN is altered, mutilated, or missing.

**C. Penalty for failure to comply with this section.** A towing service shall not collect any charges or liens for storage of an unclaimed motor vehicle if it fails to either:

(1) request ownership information within five (5) business days after a motor vehicle comes into its possession; or

(2) mail notice to the registered owner and any lienholder within two (2) business days of receipt of ownership information.

**D. Exception.** A towing service shall not be required to give the notice required by subsection B of this section to the owner if, before the notice is required to be sent, the owner of the motor vehicle identifies himself to the towing service and makes any arrangement the towing service deems necessary for the payment of the towing and storage charges. However, the towing service shall still be required to give the notice to the lienholder of the motor vehicle.

[18.3.12.26 NMAC - Rp, SCC Rule 267.23, 12-30-02; A, 1-1-05]

**18.3.12.27 DISPOSAL OF UNCLAIMED AND ABANDONED MOTOR VEHICLES:** Before a towing service may dispose of an unclaimed or abandoned motor vehicle, it must comply with the requirements in NMSA 1978 Chapter 66, Article 3, Part 2, Transfer of Title or Interest, and perfect it's lien using the MVD "Special Title Procedures for Towing Lien Process" or "Special Title Procedures for Mechanic's, Landlords, Storage or Abandoned Vehicle Lien Process."

[18.3.12.27 NMAC - Rp, SCC Rule 267.24, 12-30-02; A, 1-1-05]

**18.3.12.28 TOWING SERVICE RESPONSIBILITY:** A towing service shall be responsible for:

**A.** removing debris at the scene of an accident whether or not specifically directed to do so by law enforcement authorities; and

**B.** the safekeeping and delivery of a motor vehicle and its contents entrusted to it or which come into its custody in the course of its authorized operations.

[18.3.12.28 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.12.29 INCOME AND EXPENSE RECORDS:** A towing service shall maintain complete and permanent records of income and costs of operation for non-consensual tows performed in New Mexico separate and apart from any other towing services and from any other business conducted by the towing service.

[18.3.12.29 NMAC - N, 12-30-02]

#### **HISTORY OF 18.3.12 NMAC**

**Pre-NMAC history.** The material in this rule was previously filed with the State Records Center as: SCC 68-16, N.M. Motor Carrier Act, Rules and Regulations, effective Sept. 1, 1967, filed on 3-14-68; SCC 71-6, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1971, filed on 9-21-71; SCC 72-12, N.M. Wrecker Tariff No. 1-B, Issued September 29, 1969, filed on 10-2-72; SCC 73-1, N.M. Motor Carrier Act, Rules and Regulations, filed on 6-14-73; SCC 74-1, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1973, filed on 2-5-74; SCC 75-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1975, filed on 4-17-75; SCC 75-3, N.M. Motor Carrier Act, Rules and Regulations (Rev.), effective Jan. 1, 1975, filed on 9-19-75; SCC 76-1, N.M. Motor Carrier Act, Rules and Regulations, effective April 1, 1976, filed on 4-15-76; SCC 77-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1977, filed on 1-25-77; SCC 77-3, N.M. Wrecker Tariff No. 1-D, Issued July 1, 1976, filed on 6-6-77; SCC 79-2, N.M. Wrecker Tariff No. 3-D, Issued April 15, 1979, filed on 5-25-79; SCC 86-4, In the Matter of Minimum Specifications for Wreckers-General Order No. 42 (1986 Revision), filed 9-29-86; SCC 92-4-TR, New Mexico Wrecker Rules, filed on 7-29-92; SCCMC Rule No. 14, Equipment Required on Certain Vehicles, filed on 3-5-82; SCC Rule 202, Definitions, filed on 1-5-93; SCC Rule 267, Wrecker Services, filed on 1-5-93.

#### **History of repealed material.**

SCC Rule 202, Definitions, filed on 1-5-93;  
SCC Rule 267, Wrecker Services, filed on 1-5-93.

**TITLE 18       TRANSPORTATION AND HIGHWAYS**  
**CHAPTER 3     MOTOR CARRIER GENERAL PROVISIONS**  
**PART 13       REGISTRATION OF INTERSTATE CARRIERS**

**18.3.13.1       ISSUING AGENCY:** New Mexico Public Regulation Commission.  
[18.3.13.1 NMAC - N, 12-30-02]

**18.3.13.2       SCOPE:** This rule applies to interstate motor carriers that choose New Mexico as their base state.  
[18.3.13.2 NMAC - N, 12-30-02]

**18.3.13.3       STATUTORY AUTHORITY:** NMSA 1978 Sections 8-8-4 and 65-2A-4.  
[18.3.13.3 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.13.4       DURATION:** Permanent.  
[18.3.13.4 NMAC - N, 12-30-02]

**18.3.13.5       EFFECTIVE DATE:** December 30, 2002, unless a later date is cited at the end of a section.  
[18.3.13.5 NMAC - N, 12-30-02]

**18.3.13.6       OBJECTIVE:** The purpose of this rule is to implement NMSA 1978 Section 65-2A-16.  
[18.3.13.6 NMAC - N, 12-30-02; A, 1-1-05]

**18.3.13.7       DEFINITIONS:** In addition to the definitions in NMSA 1978 Section 65-2A-3 and 18.3.1.7 NMAC, as used in this rule:

**A.       FMCSA authorized carrier** means a motor carrier authorized by the federal motor carrier safety administration to engage in compensated transportation as a common or contract carrier in interstate or foreign commerce pursuant to federal law;

**B.       single state registration system** means the procedures in 49 CFR Part 367 for the registration of FMCSA authorized carriers with states.

[18.3.13.7 NMAC - Rp, SCC Rule 215.01, 12-30-02; A, 1-1-05]

**18.3.13.8       SINGLE STATE REGISTRATION OF FMCSA AUTHORIZED CARRIERS:**

**A.**       The commission has determined that New Mexico is eligible to participate in, and elects to participate in, the single state registration system and agrees to utilize the procedures developed by the national conference of state transportation specialists in accordance with 49 U.S.C. 14504 for the single state registration of FMCSA authorized carriers.

**B.**       FMCSA authorized carriers registering in New Mexico shall pay all fees required by NMSA 1978 Section 65-2A-36 in guaranteed funds.

[18.3.13.8 NMAC - Rp, SCC Rule 215.03, 12-30-02]

**18.3.13.9       PROOF OF REGISTRATION:** An FMCSA authorized carrier shall carry a single-state registration receipt in each motor vehicle it operates in New Mexico.

[18.3.13.9 NMAC - Rp, SCC Rule 215.07, 12-30-02]

**HISTORY OF 18.3.13 NMAC:**

**Pre-NMAC history.** The material in this rule was previously filed with the state records center as:

SCC 68-16, N.M. Motor Carrier Act, Rules and Regulations, effective Sept. 1, 1967, filed on 3-14-68;

SCC 71-6, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1971, filed on 9-21-71;

SCC 73-1, N.M. Motor Carrier Act, Rules and Regulations, filed on 6-14-73;

SCC 74-1, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1973, filed on 2-5-74;

SCC 75-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1975, filed on 4-17-75;

SCC 75-3, N.M. Motor Carrier Act, Rules and Regulations (Rev.), effective Jan. 1, 1975, filed on 9-19-75;

SCC 76-1, N.M. Motor Carrier Act, Rules and Regulations, effective April 1, 1976, filed on 4-15-76;

SCC 77-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1977, filed on 1-25-77;  
SCCMC Rule No. 46, Standards for Operations of Interstate Carriers, filed on 3-5-82;  
NMSCC Rule No. 40, NMSCC Cab Card, filed on 3-5-82;  
SCC Rule 215, Registration of Interstate Carriers, filed on 1-5-93;  
SCC Rule 215, Registration of Interstate Carriers, filed on 10-27-93.

**History of repealed material:**

SCC Rule 215, Registration of Interstate Carriers, filed on 10-27-93.

**TITLE 18      TRANSPORTATION AND HIGHWAYS**  
**CHAPTER 3    MOTOR CARRIER GENERAL PROVISIONS**  
**PART 14      AMBULANCE SERVICES**

**18.3.14.1      ISSUING AGENCY:** Public Regulation Commission.  
[18.3.14.1 NMAC - Rp, 18 NMAC 4.2.1, 1-1-05]

**18.3.14.2      SCOPE:**

**A.** This rule applies to all ambulance services subject to the jurisdiction of the commission and is in addition to all other applicable requirements of these rules.

**B.** In addition to the exemptions stated in NMSA 1978 Sections 65-2A-38 and 65-6-6, this rule does not apply to:

(1) agencies of the United States government or

(2) ambulance services authorized in another state or country that are engaged in interstate transportation of patients into or out of New Mexico.

**C.** The director shall determine, on a case-by-case basis, whether this rule applies to New Mexico state agencies operating ambulance services.

[18.3.14.2 NMAC - Rp, 18 NMAC 4.2.2, 1-1-05]

**18.3.14.3      STATUTORY AUTHORITY:** NMSA 1978 Sections 65-2A-4 and 65-6-4.

[18.3.14.3 NMAC - Rp, 18 NMAC 4.2.3, 1-1-05]

**18.3.14.4      DURATION:** Permanent.

[18.3.14.4 NMAC - Rp, 18 NMAC 4.2.4, 1-1-05]

**18.3.14.5      EFFECTIVE DATE:** January 1, 2005, unless a later date is cited at the end of a section.

[18.3.14.5 NMAC - Rp, 18 NMAC 4.2.5, 1-1-05]

**18.3.14.6      OBJECTIVE:** The purpose of this rule is to establish requirements for ambulance services.

[18.3.14.6 NMAC - Rp, 18 NMAC 4.2.6, 1-1-05]

**18.3.14.7      DEFINITIONS:** In addition to the definitions in NMSA 1978 Sections 24-10B-3 and 65-6-2, and 18.3.1 and 7.27.2 NMAC, as used in this rule:

**A.** **advanced levels** means emergency medical services above the EMT basic level, including EMT intermediate, EMT paramedic, and special skills which include enhanced emergency medical services and critical care transport;

**B.** **critical care transport (CCT)** means inter-facility critical patient care and treatment used to transport intensive care patients, that exceeds the EMT paramedic level of care and is a special skill;

**C.** **emergency medical services basic (EMT basic)** means the pre-hospital and inter-facility care and treatment prescribed in 7.27.2 NMAC, Certification and Licensing for EMS Personnel, that can be performed by all licensed emergency medical technicians;

**D.** **emergency medical services intermediate (EMT intermediate)** means certain advanced pre-hospital and inter-facility care and treatment prescribed in 7.27.2 NMAC, Certification and Licensing for EMS Personnel, including EMT basic, that may be performed only by a person licensed by the EMS bureau as an EMT intermediate and only under medical direction;

**E.** **emergency medical services paramedic (EMT paramedic)** means advanced pre-hospital assessment, and inter-facility care and treatment prescribed in 7.27.2 NMAC, Certification and Licensing for EMS Personnel, including EMT basic and EMT intermediate, that may be performed only by a person licensed by the EMS bureau as an EMT paramedic and only under medical direction;

**F.** **emergency** means the sudden onset of what reasonably appears to be a medical condition that manifests itself by symptoms of sufficient severity, which may include severe pain, that the absence of immediate medical attention could reasonably be expected by a lay person to result in:

(1) jeopardy of the person's health;

(2) serious impairment of bodily functions;

- (3) serious dysfunction of any bodily organ or part; or
- (4) disfigurement to the person.

**G. EMS** means emergency medical services;

**H. enhanced emergency medical service (E-EMS)** means out-of-hospital care and treatment utilized in underserved areas that have a need for medical assessment, treatment, or referral, or alternate modes of transportation, for patients by specially trained, advanced level EMS providers that exceeds the EMT paramedic level of care and is a special skill;

**I. GSA standards** means the minimum standards and specifications for ambulances contained in U.S. general services administration standard KKK-A-1822-D;

**J. inter-facility transfer** means the transportation of a person between health care facilities with the concurrence of a sending and a receiving physician;

**K. mutual aid** means a written agreement between one municipality, county or emergency medical service and other municipalities, counties or emergency medical services for the purpose of ensuring that adequate emergency medical services exist throughout the state;

**L. patient catchment area** means an area outside the territory authorized by the operating authority issued by the commission that an ambulance service is permitted to serve in emergencies or pursuant to mutual aid agreements;

**M. pre-hospital response times** means the period of time from the time a dispatch agency dispatches an ambulance service until the time an EMS crew arrives at the scene of the emergency;

**N. special event EMS** means an ambulance with two (2) licensed EMTs in stand-by status at a special event such as a football game or county fair.

[18.3.14.7 NMAC - Rp, 18 NMAC 4.2.7, 1-1-05]

#### **18.3.14.8 DUTY TO PROVIDE SERVICE:**

**A.** It shall be unlawful for an ambulance service, or any of its personnel or agents, to refuse to provide service to a person in need of emergency medical treatment or transportation, or to require advance payment prior to rendering such service.

**B.** An ambulance service shall transport a patient requiring medical treatment and transport to the closest appropriate facility capable of providing definitive care and treatment, as determined by the service's medical director.

**C.** An ambulance service shall give priority to emergency response calls.

**D.** An ambulance service shall be available 24 hours a day, 365 days a year.

[18.3.14.8 NMAC - Rp, 18 NMAC 4.2.95, 1-1-05]

**18.3.14.9 MUTUAL AID:** Ambulance services shall develop mutual aid plans with all appropriate entities that may be implemented anytime an ambulance service cannot respond to a call or if a disaster or emergency occurs. Mutual aid may be provided:

**A.** in an emergency or disaster situation when requested by state or local authorities;

**B.** when requested by another EMS service, an EMT, or healthcare facility during an emergency and in accordance with established mutual aid agreements;

**C.** when requested by a law enforcement agency or officer; or

**D.** when requested by an official of a political subdivision of the state.

[18.3.14.9 NMAC - Rp, 18 NMAC 4.2.84, 1-1-05]

**18.3.14.10 OPERATIONS PLAN:** Each ambulance service shall have a written operations plan setting forth its policies and procedures. The plan shall be periodically updated and shall be available for inspection by the EMS bureau and the commission at all times. Such a plan shall include at a minimum:

**A.** copies of all operational guidelines and medical protocols;

**B.** a quality assurance plan;

**C.** personnel requirements;

**D.** copies of all mutual aid agreements;

**E.** a disaster or mass casualty plan;

**F.** infection control procedures;

**G.** a description of emergency medical dispatch capabilities;

**H.** standards for personnel duty time; and  
**I.** anticipated pre-hospital response times in the ambulance service's territory or patient catchment area, and a discussion of factors that can cause delays in meeting anticipated response times. Such factors may include:

- (1) the geography of the territory;
- (2) whether the service uses volunteer or paid drivers;
- (3) whether the territory is urban or rural or both;
- (4) stationing points for ambulances and crews;
- (5) weather.

[18.3.14.10 NMAC - Rp, 18 NMAC 4.2.94, 1-1-05]

**18.3.14.11 MINIMUM PERSONNEL REQUIREMENTS:**

**A. Ambulances.**

(1) A minimum of two (2) licensed EMTs from the ambulance service shall be present at the scene of the emergency, except that two EMTs need not be present at the scene for prearranged transfers of a stable patient or in those unusual situations where there are overlapping calls, disasters, or similar unforeseen circumstances which result in an insufficient number of EMTs being available.

(2) A minimum of one (1) EMT shall be in the patient compartment at all times during patient care and transport.

**B. Exceptions.**

(1) An EMT is required to be aboard the ambulance but is not required in the patient compartment of the ambulance when a member of a neonatal intensive care team is attending a patient in a self-contained newborn intensive care isolette.

(2) Subject to the policies of the service, additional non-EMT medical personnel, functioning within the scope of their licensure, may accompany a patient in an ambulance patient compartment, as long as one EMT is also present in the patient compartment.

**C. Training coordinator required.** Each ambulance service shall designate an individual who shall coordinate the availability of appropriate training programs and continuing education for ambulance service personnel.

**D. Medical director required.** Each ambulance service shall designate a medical director, working under agreement or contract, who is trained and meets the requirements for a medical director prescribed in 7.27.3 NMAC, Medical Direction for Emergency Medical Services. If an ambulance service is temporarily without a medical director, it shall make arrangements for temporary medical direction with a local, regional or state EMS medical director.

[18.3.14.11 NMAC - Rp, 18 NMAC 4.2.80 and 18 NMAC 4.2.82, 1-1-05]

**18.3.14.12 VEHICLE LIST:**

**A.** Each ambulance service shall maintain at its operating location a list of ambulances used in its authorized operations. The list shall identify each ambulance by type (I, II, III), manufacturer, serial number, registration number, and other descriptive information sufficient for identification, and shall state whether the ambulance is leased or owned.

**B.** An ambulance service may only use ambulances on the vehicle list for its regulated operations.

**C.** An ambulance service shall update the list and submit it to the commission within ten days of the date on which an ambulance is either put into service or taken out of service.

[18.3.14.12 NMAC - Rp, 18 NMAC 4.2.74, 1-1-05]

**18.3.14.13 VEHICLE STANDARDS:** All ambulances purchased, acquired, or placed into service by an authorized EMS service after the effective date of this rule shall meet or exceed the GSA standards for the operation, crash performance and safety of Type I, II or III ambulances or other newly designated ambulance types.

[18.3.14.13 NMAC - Rp, 18 NMAC 4.2.83, 1-1-05]

**18.3.14.14 REQUIRED EQUIPMENT:** When an ambulance is dispatched, it shall carry and have readily available in good working order:

**A.** one (1) semi-automatic defibrillator for EMT basic, as specified in the EMS scopes of practice and local medical protocol; (note: these devices require specific training and medical director approval prior to use);

**B.** suction systems, which include:

- (1) on-board suction unit that meets GSA standards;
- (2) portable, manual- or battery-powered suction unit;
- (3) ventilation devices including manual, self-filling, bag-valve-mask (BVM) ventilation devices, in adult and child sizes (child and adult BVMs are sufficient for the entire pediatric range); the BVM shall be equipped with a sufficient supply of see through adult, child and infant masks;

**C.** oxygen delivery systems, which include:

- (1) fixed, on-board oxygen supply which meets GSA specifications;
- (2) portable oxygen devices which are capable of delivering at least 60 minutes of oxygen at a flow rate of 10 liters per minute, or at a minimum, two (2) D cylinders; at least one (1) cylinder will be designated primary and configured with a yoke type regulator, liter control and contents supply gauge;

**D.** splints, including as a minimum:

- (1) one (1) adult traction splint with limb supporting slings, padded ankle hitch and traction device;
- (2) two (2) sets of rigid splinting devices, or equivalents, suitable for the immobilization of upper or lower extremities, in adult, child and infant sizes;

**E.** spine immobilization devices, one (1) half-body device and two (2) full-body devices, with suitable strapping, and head immobilization devices; commercial devices that stabilize head, neck, and back as one unit, may be substituted;

**F.** one (1) commercially available obstetrical kit, or equivalent;

**G.** one (1) sphygmomanometer in adult, child and infant sizes, or one (1) sphygmomanometer capable of accepting various sizes of cuffs (adult, child, and infant); in the latter case, a sufficient supply of cuffs in each of the identified sizes shall be available;

**H.** one (1) stethoscope;

**I.** two (2) double D-cell, or equivalent, flashlights with batteries;

**J.** one (1) all-purpose multi-level ambulance stretcher, with safety straps and crash-resistant locking/securing mechanism; the locking mechanism in the vehicle shall be the mechanism designed for the stretcher being used; locking mechanisms for other stretchers or locally produced mechanisms are not allowed; in addition, the mattress shall be fluid impervious;

**K.** one (1) minimum 10-pound, or two (2) minimum five-pound 1A20BC, or equivalent, fire extinguisher; a current inspection tag will be displayed on all fire extinguishers;

**L.** one (1) two-way mobile radio capable of direct communication between the EMT and the receiving medical facility, on ultra high frequency, on federal communications commission-designated emergency medical radio service (EMRS) frequencies, and which is compatible with the state emergency medical services radio communications system (EMSCOM), and is approved by the EMS bureau and a copy of the IPEMS / DOH "EMS communications system (EMSCOM) manual;"

**M.** scene safety protective equipment including:

- (1) six (6) 20-minute red flares or other warning devices suitable for nighttime use;
- (2) reflective apparel (or turn-out gear) for all personnel;
- (3) a current edition of the "north American emergency response guidebook", a guidebook for first responders during the initial phase of a hazardous materials/dangerous goods incident;

**N.** uniforms or other apparel or means of identification of a distinct design or fashion to be worn by ambulance service personnel when on duty to identify them as EMS providers and to identify the level of EMS care they are providing.

[18.3.14.14 NMAC - Rp, 18 NMAC 4.2.87, 1-1-05]

**18.3.14.15 REQUIRED SUPPLIES:** When an ambulance is dispatched, it shall carry and have readily available:

**A.** twelve (12) sterile bandages, soft roller, self-adhering type;

**B.** six (6) triangular bandages;

**C.** one (1) box band-aids;



- D. one (1) pair trauma shears (either in the ambulance or on the EMT's person);
- E. one (1) pair sterile scissors used for cutting the umbilical cord during a delivery; commercially available sterile cutting devices may be substituted;
- F. six (6) sterile trauma dressings in large and small sizes;
- G. fifty (50) sterile 4" x 4", or larger, sponges;
- H. four (4) rolls of adhesive tape;
- I. four (4) cold packs and four (4) heat packs;
- J. two (2) sterile burn sheets, individually wrapped;
- K. four (4) sterile burn dressings;
- L. two (2) sets of oropharyngeal airways in sizes 0 through 5 (infant through adult);
- M. three (3) sterile, petroleum gel-impregnated gauze dressings, or other suitable occlusive dressings;
- N. two (2) sets of rigid cervical collars of plastic, not foam, construction in various sizes for adult, child and infant; commercially available immobilization devices are allowed;
- O. a sufficient quantity of appropriate airborne and blood-borne infection control supplies, as recommended by the centers for disease control and prevention, including gloves, masks, eye protection, sharps containers, etc., to protect all patient care providers dispatched with the ambulance; in addition, recommended hand-washing supplies and disinfectant shall be available on the vehicle;
- P. at least two (2) disposable high-concentration oxygen masks and two (2) disposable nasal cannulas in adult and child sizes and oxygen supply tubing, in adult and child sizes;
- Q. appropriate large and small bore tip suction catheters (6f-14f) and hoses;
- R. one (1) bulb suction device;
- S. one (1) emesis basin or large plastic bag;
- T. two (2) liters of sterile water; and
- U. two (2) clean sets of linen, including at least two (2) blankets and pillows (or suitable pillow substitutes) at all times.

[18.3.14.15 NMAC - Rp, 18 NMAC 4.2.86, 1-1-05]

**18.3.14.16 MEDICATIONS:** An ambulance service shall adhere to the appropriate EMS scopes of practice for EMS personnel regarding approved medications. In some cases the medical direction committee may authorize special skills that allow unique medications not found in the scopes of practice. In such cases, these medications are allowed on the vehicle for use by the authorized personnel, as specified by the special skills approval letter provided by the EMS medical direction committee and the EMS bureau. In all cases, medications shall only be administered under medical direction, as specified in the scopes of practice and any special skills approval letters.

[18.3.14.16 NMAC - Rp, 18 NMAC 4.2.89, 1-1-05]

**18.3.14.17 PORTABLE MEDICAL KITS:** In addition to the equipment and supplies required by this rule, every ambulance shall carry at least one (1) or more portable medical kits, consistent with medical protocol. Each portable medical kit shall contain the items listed below, or their appropriate equivalent, although an ambulance service may add other items based on training levels and local protocols.

- A. One (1) sphygmomanometer in adult, child and infant sizes, or one (1) sphygmomanometer capable of accepting various sizes of cuffs (adult, child, and infant). In the latter case, a sufficient supply of cuff in each of the identified sizes shall be available.
- B. One (1) stethoscope.
- C. Four (4) soft roller, self-adhering type bandages.
- D. Three (3) triangular bandages.
- E. Two (2) trauma dressings.
- F. Ten (10) 4" x 4" gauze sponges.
- G. One (1) roll adhesive tape.
- H. One (1) pair of trauma shears (either in the ambulance or on the EMT's person).
- I. One (1) penlight (either in the ambulance or on the EMT's person).
- J. Two (2) sterile burn dressings.
- K. One (1) adult-size bag-valve-mask (BVM) ventilation device. Infant and child BVM may be

incorporated in the kit or readily available aboard the vehicle.

- L.** One (1) set of oropharyngeal airways, sizes 0 through 6 (neonatal through adult).
- M.** Two (2) sterile, petroleum gel-impregnated gauze dressings, or other suitable occlusive dressings.
- N.** Multiple pair of disposable assessment and treatment gloves.

[18.3.14.17 NMAC - N, Rp, 18 NMAC 4.2.90, 1-1-05]

**18.3.14.18 SPECIAL SKILLS:** An ambulance service wishing to provide special skills of EMS shall:

- A.** submit a special skills application to the EMS bureau, as provided in 7.27.2 NMAC, Certification and Licensing of Emergency Medical Services Personnel; and
- B.** if the application is approved, file an application for a change in tariff with the commission if it seeks reimbursement for advanced levels service.

[18.3.14.18 NMAC - Rp, 18 NMAC 4.2.24, 1-1-05]

**18.3.14.19 ADDITIONAL REQUIREMENTS FOR ADVANCED LEVEL SERVICES:**

**A. Additional requirements.** An ambulance service shall meet the following additional requirements before it provides any EMT paramedic treatments or procedures, including special skills.

(1) If an ambulance service represents itself or labels its vehicles as a provider of service at any level above EMT basic, that advanced level of care and treatment shall be appropriately provided 24 hours a day, 365 days a year, except in those unusual situations where there are overlapping calls, disasters, or similar unforeseen circumstances.

(2) When advanced level care and treatment is provided, at least one person trained and licensed at that higher level shall respond to the scene of the emergency and accompany the patient in the patient compartment of the ambulance during transport, in addition to, or instead of, the EMT required by this rule.

(3) If EMT intermediate or EMT paramedic level services are to be provided, the ambulance shall, in addition to other requirements, carry supplies and equipment appropriate to the level of service and consistent with the relevant EMS scopes of practice.

**B. Additional supplies and equipment.** The following additional items are required for advanced level ambulance services:

(1) one (1) semi-automatic monitor-defibrillator for EMT intermediate or manual monitor-defibrillator for EMT paramedic, as specified in the EMS scopes of practice and local medical protocol; (note: these devices require specific training and medical director approval prior to use);

(2) assorted arm boards in infant, child and adult sizes;

(3) assorted intravenous catheters in sizes 14-24 gauge;

(4) assorted macro-drip IV devices to infuse intravenous fluids into adults (15 drop per cc or better);

(5) assorted micro-drip IV devices to manage IV administration to infants and children; these may be burettes, micro-drip tubing or in-line volume controllers;

(6) two (2) intra-osseous needles;

(7) one (1) pediatric drug dosage chart or tape; this may include charts listing the drug dosages in milliliters or milligrams per kilogram, pre-calculated doses based on weight, or a tape that generates the drug dose based on the patient's height or weight;

(8) assorted intravenous (IV) fluids that comply with the EMS scopes of practice; these fluids shall be stored within the manufacturers recommended temperature range at all times during non-use;

(9) one (1) laryngoscope with straight or curved blades in infant, child and adult sizes; spare bulbs and batteries shall be readily available;

(10) two (2) each pediatric and adult stylets for endotracheal tubes;

(11) one (1) each pediatric and adult magill forceps;

(12) assorted endotracheal tubes in sizes: uncuffed 2.5-6.0 and cuffed 6.0-8.0; one each pediatric and adult magill forceps;

(13) assorted medications and resuscitation medications that are allowed in the EMS scopes of practice and local medical protocol; these medications shall be stored within the manufacturer's recommended temperature range at all times during non-use.

[18.3.14.19 NMAC - Rp, 18 NMAC 4.2.88 and 18 NMAC 4.2.92, 1-1-05]

**18.3.14.20 NON-EMERGENCY TRANSPORT SERVICE:** An ambulance service may provide scheduled pre-hospital or inter-facility transport of stable patients, including physically or mentally impaired patients or non-ambulatory patients, who cannot be transported by common means of transportation and who require the attending care of qualified medical personnel. An ambulance service providing such service shall:

- A. transport patients in ambulances that meet the requirements of this rule; and
- B. provide, at a minimum, one EMT basic who shall be in the patient compartment attending the patient whenever a patient is being cared for or transported.

[18.3.14.20 NMAC - Rp, 18 NMAC 4.2.93, 1-1-05]

**18.3.14.21 SPECIAL EVENTS EMS:** An ambulance in:

- A. dedicated stand-by status shall not respond to emergency calls, except in cases of disaster or medical emergency where mutual aid is requested and granted;
- B. non-dedicated stand-by status may respond to emergency calls.

[18.3.14.21 NMAC - N, 1-1-05]

**18.3.14.22 ANNUAL SERVICE REPORT AND LOCAL FUNDING PROGRAM APPLICATION:** The EMS bureau will mail an EMS annual service report form including an EMS Fund Act local funding program application to all ambulance services on November 1 each year. Each ambulance service shall complete the form and return it to the EMS bureau no later than January 15 of the following year. The EMS bureau will distribute a copy of the annual service report and funding application from each ambulance service to the commission. The annual service report shall contain:

- A. the names of all individuals serving as EMS personnel, including their licensure level and expiration date and the completion date of the emergency vehicle operator's course required by this rule;
- B. the names of all non-EMT drivers and the completion date of the driving course required by this rule;
- C. the name and physician license number of the service's medical director; if an ambulance service has not previously submitted the physician's credentials to the EMS bureau, it shall include them with the annual report; any substantial change in these credentials shall be forwarded to the EMS bureau for review by the state EMS medical director;
- D. the name of the service's training coordinator;
- E. a description of all ambulances currently being used to transport patients, including their dates of manufacture, makes, license plate numbers and mileage;
- F. other information as may be required by the EMS bureau or the commission;
- G. a certification of an annual safety inspection of all ambulances including the date, name and location of the certified mechanic performing the inspection, as outlined in Subsection C of 18.3.5.13 NMAC.

[18.3.14.22 NMAC - Rp, 18 NMAC 4.2.76, 1-1-05]

**18.3.14.23 MAINTENANCE, PRESERVATION, AND RETENTION OF RECORDS:** In addition to the requirements in 18.3.7.14 NMAC, every ambulance service shall maintain accurate and separate records of its services in New Mexico, including but not limited to:

- A. driver records including current licenses, history of DOT physical examinations or physician certifications, and emergency vehicle operator training history;
- C. EMS personnel licensure;
- D. statement of employment or volunteer status, including employment start and stop dates;
- E. records of equipment, such as reports, repair and maintenance records, equipment lists, vehicle titles, and registration certificates;
- F. complete accounts;
- G. organized records of all ambulance runs, including a copy of the patient care record.

[18.3.14.23 NMAC - Rp, 18 NMAC 4.2.73, 1-1-05]

**18.3.14.24 QUALITY ASSURANCE:** Each ambulance service shall have a written quality assurance program, which shall provide for:

- A. **patient care records retention:** an ambulance service shall retain pre-hospital patient care records for seven (7) years, as approved by local medical protocol;
- B. **reporting:** ambulance services shall complete a patient run report for each patient that is

contacted during an emergency response or inter-facility transport; the minimum data elements from these reports, as identified by the EMS bureau, shall be compiled to the extent possible and submitted to the pre-hospital data collection system at the injury prevention and EMS bureau as prescribed in 7.27.4 NMAC, Emergency Medical Services Fund Act;

**C. minimum patient information required upon patient delivery to the destination facility:** pursuant to ambulance service protocol, an ambulance service shall communicate, in writing, clinical patient information to the intercepting ambulance or receiving facility at the time of patient transfer or delivery, if available:

- (1) ambulance unit number, EMT name and level of licensure;
- (2) patient age and sex;
- (3) patient's chief complaint;
- (4) a brief history of the present illness, including scene assessment and mechanism of injury;
- (5) major past illnesses;
- (6) patient's mental status;
- (7) patient's baseline vital signs;
- (8) pertinent findings of the physical examination;
- (9) description of emergency medical care that has been provided for the patient, including that provided by any first response units; and
- (10) the patient's response to the emergency medical care received.

**D. completed patient care records:** an ambulance service shall deliver a copy of the completed pre-hospital patient care record to the receiving facility emergency department for inclusion in the patient's permanent medical record upon delivery of the patient to the hospital; in the event the unit is dispatched on another call, the patient care record shall be delivered as soon as possible after that call, but not later than the end of a shift or 24 hours after the transportation and treatment of the patient;

**E. medical protocols and operational guidelines:** the ambulance service medical director shall develop and approve medical protocols and operational guidelines, which should include procedures for obtaining on-line medical direction;

**F. medical director review of patient care:** an ambulance service medical director shall review patient care records at least monthly to determine whether appropriate medical care is being provided; the medical director shall document the steps taken during the review; subsequent reviews will include an evaluation of whether appropriate follow-up has been accomplished;

**G. confidentiality of medical records:** an ambulance service may only release patient care records as provided by law.

[18.3.14.24 NMAC - Rp, 18 NMAC 4.2.91, 1-1-05]

**18.3.14.25 REISSUANCE OF CERTIFICATE:** Sixty (60) days prior to expiration of its certificate, an ambulance service shall submit to the director an application for reissuance of its ambulance certificate containing the information required by Paragraphs (1) through (10) of Subsection A of 18.3.2.15 NMAC. The director shall prepare a notice of application as provided in 18.3.2.17 NMAC. The director shall reissue the certificate for the period of time prescribed in NMSA 1978 Section 65-6-5 unless staff or an interested person objects. If there is an objection, the director shall process the application in accordance with 18.3.2.18 NMAC. 18.3.14.25 NMAC - N, 1-1-05]

**18.3.14.26 TRANSITION TO NEW EQUIPMENT REQUIREMENTS:** Ambulance services utilizing equipment that does not meet the requirements of this rule shall have thirty (30) days from the effective date of this rule to meet the equipment requirements of this rule or apply for a variance from or waiver of such requirements.

[18.3.14.26 NMAC - Rp, 18 NMAC 4.2.14, 1-1-05]

#### **HISTORY OF 18.3.14 NMAC**

**Pre-NMAC history.** The material in this rule was previously filed with the state records center as: SCC 68-16, NM Motor Carrier Act, Rules and Regulations, Effective Sept. 1, 1967, filed 3-14-68; SCC 68-50, General Order No. 38, filed 6-13-68; SCC 71-3, General Order No. 40, Docket No. 532, filed 5-24-71; SCC 71-5, General Suspension Order No. 41, Docket No. 540, filed 8-20-71;

SCC 71-6, NM Motor Carrier Act, Rules and Regulations, Effective July 1, 1971, filed 9-21-71;  
SCC-72-13, NM Ambulance Tariff No. 3-B Issued May 8, 1972, filed 10-2-72;  
SCC 73-1, NM Motor Carrier Act, Rules and Regulations, filed 6-14-73;  
SCC 74-1, NM Motor Carrier Act, Rules and Regulations, Effective July 1, 1973, filed 2-5-74;  
SCC 75-1, NM Motor Carrier Act, Rules and Regulations, Effective Jan. 1, 1975, filed 4-17-75;  
SCC 75-2, Second Revised General Order No. 35, In the Matter of Standards for Ambulance Operators, filed 7-11-75;  
SCC 75-3, NM Motor Carrier Act, Rules and Regulations (Rev.), Effective Jan. 1, 1975, filed 9-19-75;  
SCC 76-1, NM Motor Carrier Act, Rules and Regulations, Effective April 1, 1976, filed 4-15-76;  
SCC 77-1, NM Motor Carrier Act, Rules and Regulations, Effective Jan. 1, 1977, filed 1-25-77;  
SCC-77-4, NM Ambulance Tariff No. 3-B Issued May 8, 1972, (Reissue), filed 6-6-77;  
SCC 78-1, Third Revised General Order No. 35, In the Matter of Standards for Ambulance Operators, filed 9-5-78;  
SCCMC Rule No. 45, Ambulance Operators are Authorized to Provide the Following Service Notwithstanding Territorial Restrictions Contained in their Certificates, filed 3-5-82;  
SCCMC Rule No. 49, Ambulance Services - Duty to Provide Service, filed 3-5-82;  
SCC 84-5-TD, Standards for Ambulance Operators - Seventh Revised General Order No. 35, filed 6-28-84;  
SCC 92-5-TR, Ambulance Standards Rule, filed 8-18-92;  
SCC Rule 252, Ambulance Standard, filed 1-5-93;  
SCC Rule 252, Ambulance Standards, filed 10-27-93.

**History of repealed material:**

SCC 68-16, NM Motor Carrier Act, Rules and Regulations, Effective Sept. 1, 1967 (filed 3-14-68);  
SCC 68-50, General Order No. 38 (filed 6-13-68);  
SCC 71-3, General Order No. 40, Docket No. 532 (filed 5-24-71);  
SCC 71-5, General Suspension Order No. 41, Docket No. 540 (filed 8-20-71);  
SCC 71-6, NM Motor Carrier Act, Rules and Regulations, Effective July 1, 1971 (filed 9-21-71);  
SCC-72-13, NM Ambulance Tariff No. 3-B Issued May 8, 1972 (filed 10-2-72);  
SCC 73-1, NM Motor Carrier Act, Rules and Regulations (filed 6-14-73);  
SCC 74-1, NM Motor Carrier Act, Rules and Regulations, Effective July 1, 1973 (filed 2-5-74);  
SCC 75-1, NM Motor Carrier Act, Rules and Regulations, Effective Jan. 1, 1975 (filed 4-17-75);  
SCC 75-2, Second Revised General Order No. 35, In the Matter of Standards for Ambulance Operators (filed 7-11-75);  
SCC 75-3, NM Motor Carrier Act, Rules and Regulations (Rev.), Effective Jan. 1, 1975 (filed 9-19-75);  
SCC 76-1, NM Motor Carrier Act, Rules and Regulations, Effective April 1, 1976 (filed 4-15-76);  
SCC 77-1, NM Motor Carrier Act, Rules and Regulations, Effective Jan. 1, 1977 (filed 1-25-77);  
SCC-77-4, NM Ambulance Tariff No. 3-B Issued May 8, 1972, (Reissue) (filed 6-6-77);  
SCC 78-1, Third Revised General Order No. 35, In the Matter of Standards for Ambulance Operators (filed 9-5-78);  
SCCMC Rule No. 45, Ambulance Operators are Authorized to Provide the Following Service Notwithstanding Territorial Restrictions Contained in their Certificates (filed 3-5-82);  
SCCMC Rule No. 49, Ambulance Services - Duty to Provide Service (filed 3-5-82);  
SCC 84-5-TD, Standards for Ambulance Operators - Seventh Revised General Order No. 35 (filed 6-28-84);  
SCC 92-5-TR, Ambulance Standards Rule (filed 8-18-92);  
SCC Rule 252, Ambulance Standard (filed 1-5-93);  
SCC Rule 252, Ambulance Standards (filed 10-27-93);  
18 NMAC 4.2, Ambulance and Medical Rescue Services (filed 12-16-97) repealed 1-1-05.

**Other history:**

SCC Rule 252, Ambulance Standards (filed 10-27-93) renumbered, reformatted and replaced by 18 NMAC 4.2, Ambulance and Medical Rescue Services, effective 1-1-98.  
18 NMAC 4.2, Ambulance and Medical Rescue Services (filed 12-16-97) renumbered, reformatted and replaced by 18.3.14 NMAC, Ambulance Services, effective 1-1-05.

**TITLE 18      TRANSPORTATION AND HIGHWAYS**

**CHAPTER 3 MOTOR CARRIER GENERAL PROVISIONS**  
**PART 15 FUEL SURCHARGE FOR COMMISSION RATE-REGULATED MOTOR CARRIERS**

**18.3.15.1 ISSUING AGENCY:** New Mexico Public Regulation Commission.  
[18.3.15.1 NMAC-N, 5-15-08]

**18.3.15.2 SCOPE:** This rule applies to all certificated motor carriers of persons and wrecker services performing non-consensual tows.  
[18.3.15.2 NMAC-N, 5-15-08]

**18.3.15.3 STATUTORY AUTHORITY:** NMSA 1978 Sections 8-8-4, 65-2A-4 and 65-2A-21.  
[18.3.15.3 NMAC-N, 5-15-08]

**18.3.15.4 DURATION:** Permanent.  
[18.3.15.4 NMAC-N, 5-15-08]

**18.3.15.5 EFFECTIVE DATE:** May 15, 2008, unless a later date is cited at the end of a section.  
[18.3.15.5 NMAC-N, 5-15-08]

**18.3.15.6 OBJECTIVE:** The purpose of this rule is to establish a procedure providing fair and reasonable voluntary fuel surcharges to certificated motor carriers of persons and wrecker services non-consensual tows.  
[18.3.15.6 NMAC-N, 5-15-08]

**18.3.15.7 DEFINITIONS:** In addition to the definitions in 1NMSA 1978 Sections 24-10B, 65-2A-3, 65-6-2, and 18.3.1.7 NMAC, as used in this rule:

**A. base year** means the reference calendar year used as a base for determining the fuel price increase percentage in comparison to a current reference price;

**B. EIA reference price** refers to the weekly gasoline or diesel price for the Rocky Mountain Region as published as the United States department of energy's official energy information administration website at <http://tonto.eia.doe.gov/oog/infogdu/gasdiesel.asp>, or such other address on which that same information may be displayed by the energy information administration in the future;

**C. fuel price increase percentage** is the percentage by which the current EIA weekly reference price of fuel has risen in comparison to the base year;

**D. fuel surcharge program** means the procedures and requirements set forth in this rule, by which certificated motor carriers of persons and wrecker services performing non-consensual tows may implement limited increases and decreases in their rates, reflecting the changing of price of fuel, without a formal proceeding before the commission;

**E. maximum chargeable rates** are highest rates that may be charged by a motor carrier under the fuel surcharge program, pursuant to a current reference price;

**F. motor carrier fuel expense percentage** means the percentage derived by dividing a motor carrier's fuel expense attributable to a certificated service by the motor carrier's gross revenues derived that same certificated;

**G. participating motor carrier** means a motor carrier of persons which has elected to participated in fuel surcharge program;

**H. rate increase percentage** is the potential percentage increase in rates available to a particular motor carrier.

[18.3.15.7.NMAC-N, 5-15-08]

**18.3.15.8 TOWING SERVICES PERFORMING NON-CONSENSUAL TOWS:** Motor carriers performing non-consensual towing services which choose to participate in the fuel surcharge program shall comply with the following adjustment formula:

**A. fuel adjustment per mile** =(the EIA reference price for diesel or gasoline fuel minus \$1.45) divided by 5, where 5 is a constant for the miles per gallon and \$1.45 is the best cost per gallon for fuel

conclusively assumed and used in this formula for wrecker vehicles;

**B** fuel surcharge = fuel adjustment per mile multiplied by total distance traveled, included both loaded and unloaded miles;

**C** the result of the “fuel adjustment”: formula defined in this section shall be applied by participating motor carriers as an addition to, or as a subtraction from, the overall customer bill for fuel costs, as may be applicable for EIA reference diesel or gasoline prices above and below \$1.45 per gallon;

**D** the fuel adjustment shall be stated as a separate charge on the charge ticket or invoice, and shall include the surcharge amount per mile and total miles charged for fuel.

[18.3.15.8.NMAC-N, 5-15-08]

**HISTORY of 18.3.15 NMAC:** [RESERVED]