

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

18.3.2.1 ISSUING AGENCY: New Mexico Department of Transportation.
[18.3.2.1 NMAC - Rp, 18.3.2.1 NMAC, 7/1/2024]

18.3.2.2 SCOPE: This rule applies to all motor carriers in New Mexico subject to the jurisdiction of the department.
[18.3.2.2 NMAC - Rp, 18.3.2.2 NMAC, 7/1/2024]

18.3.2.3 STATUTORY AUTHORITY: Sections 65-2A-4 and 65-2A-19 NMSA 1978, and 2023 N.M. Laws, Chapter 100, Section 81.
[18.3.2.3 NMAC - Rp, 18.3.2.3 NMAC, 7/1/2024]

18.3.2.4 DURATION: Permanent.
[18.3.2.4 NMAC - Rp, 18.3.2.4 NMAC, 7/1/2024]

18.3.2.5 EFFECTIVE DATE: July 1, 2024, unless a later date is cited at the end of a section.
[18.3.2.5 NMAC - Rp, 18.3.2.5 NMAC, 7/1/2024]

18.3.2.6 OBJECTIVE: The purpose of this rule is to implement Sections 65-2A-5 through 65-2A-13 NMSA 1978.
[18.3.2.6 NMAC - Rp, 18.3.2.6 NMAC, 7/1/2024]

18.3.2.7 DEFINITIONS: See 18.3.1.7 NMAC.
[18.3.2.7 NMAC - Rp, 18.3.2.7 NMAC, 7/1/2024]

18.3.2.8 OPERATING AUTHORITY REQUIRED:
An operating authority is required for each type of service offered. An operating authority issued for one service will not serve as authorization for another service.

- A. Warrants.** A warrant is required for each of the following service types:
- (1) charter services;
 - (2) towing services, including for repossessions; and
 - (3) transportation of property, excluding household good services for which a certificate is required, and cadaver transports regulated under the Funeral Services Act, Chapter 61, Article 32 NMSA 1978.
- B. Certificates.** A certificate is required for each of the following service types:
- (1) 'full service' types are required to meet specific standards of service to a community.
 - (a) municipal taxicab services;
 - (b) scheduled shuttle services;
 - (c) ambulance services;
 - (2) 'general service' types are not required to provide marginally- or un-profitable services.
 - (a) general taxicab services;
 - (b) general shuttle services;
 - (c) household goods services; or a
 - (d) specialized passenger service types: tour and sightseeing, non-emergency medical transport, and limousine services.

[18.3.2.8 NMAC - Rp, 18.3.2.8 NMAC, 7/1/2024]

18.3.2.9 APPLICATIONS FOR OPERATING AUTHORITIES: These requirements apply to both warrant and certificate applications (including for certificate amendment, lease or transfer). Certain service types or certificate amendments may require additional information and documents, as described in these rules. The following are general application requirements for all operating authorities.

- A. Applicant information:**
- (1) the applicant's name, phone number and e-mail address for department communications;
 - (2) if the applicant is a sole proprietor, the applicant's social security number for purposes of verifying parental responsibility act compliance;
 - (3) name, mailing and e-mail address for a designated agent to receive service of process;
 - (4) the applicant's authority over, and legal relationship to, the business.
- B. Business information:**
- (1) all applicable business names to include trade or "doing business as" names;
 - (2) business telephone number;
 - (3) a mailing and physical address for the principal place of business in New Mexico, where all required records are maintained for review;
 - (4) physical addresses of every facility, office or storage yard used in its motor carrier operations;
 - (5) a combined reporting system (CRS) number obtained from the New Mexico taxation and revenue department;
 - (6) a U.S. department of transportation safety rating, if one exists;
 - (7) a certificate of workers' compensation insurance or a certificate of exemption from the workers' compensation administration;
 - (8) the required forms and amounts of financial responsibility, to include proof of garage keepers and on the hook liability insurance for towing services;
 - (9) a proposed tariff (rates, applicable schedules, dispatch process and other terms of service) for ambulance, non-consensual towing, specialized passenger (non-emergency medical, limousine, tour or sightseeing), shuttle (general or scheduled), taxi (general or municipal) or household goods services;
 - (10) the desired authorization in terms of type of service and the service territory expressed as either statewide or within or between specified counties;
 - (11) a description of the form of ownership, the date the business entity was created, names and addresses of all principal owners and managers, the percentage of ownership interest of each and, for a corporation:
 - (a) authorization by the office of the secretary of state to do business in New Mexico and evidence of good corporate standing; and
 - (b) the names and addresses of any shareholders who own ten percent or more of the voting stock of the corporation.
- C. Vehicles and equipment:**
- (1) a list of all equipment and vehicles to be used in the operations;
 - (2) an annual inspection form for each, completed by a qualified inspector in the preceding 12 months, to satisfy the applicable state and federal motor carrier safety regulations;
 - (3) a written preventive maintenance program for all motor vehicles as required; and
 - (4) the designated stationing point(s) for all vehicles and equipment.
- D. Driver information:**
- (1) a list of all drivers;
 - (2) license information for each driver to include: the state of issuance, license number, and class of license;
 - (3) legible copies of each driver's:
 - (a) license;
 - (b) motor vehicle record from the state licensing agency under which the driver is licensed; and
 - (c) medical examiner's certificate, if required by 49 CFR 391.43(g);
- E. Application fee:** Application fees are provided by rule. Fees must be received prior to notice and consideration of the application. If an application is not complete 60 days after initial submission, then the application fee is forfeited to the state.
- F. Statements of applicant:**
- (1) a statement disclosing all operating authorities owned or operated, in full or in part, by the applicant and certifying that the operating authority sought in the application does not duplicate the service and territory of any existing operating authority of the holder;
 - (2) a statement certifying that all drivers meet the driver qualifications, that a drug and alcohol testing program is in place to meet the requirements of 49 CFR Parts 40 and 382, and that driver

qualification files will be maintained for each driver;

(3) a notified oath that all statements in the application are true and correct.

(4) for taxi service (general or municipal) applicants only, a description of how calls for service are centrally dispatched, including the location of the dispatcher(s).

(5) for ambulance service applicants only, affidavits or other evidence to show:

(a) that the proposed service is or will serve a useful public purpose that is responsive to a public demand or need and that the ambulance service that currently exists in the territory sought in the application is inadequate; and

(b) the effect that issuance of the certificate would have on existing ambulance service in the territory sought in the application.

(6) for scheduled shuttle service applicants only, a daily time schedule for services.

[18.3.2.9 NMAC - Rp, 18.3.2.13 NMAC, 7/1/2024]

18.3.2.10 APPLICATION FOR TEMPORARY AUTHORITY: An applicant for a certificated service (including for amendment, lease or transfer or a tariff rate increase) may apply for temporary authority pursuant to Section 65-2A-11 NMSA 1978. The original and temporary applications must be complete, and all fees received, prior to consideration. A grant of temporary authority is discretionary and shall not create a presumption that permanent authority will be granted. Any motor carrier operating pursuant to a temporary authority must comply with all applicable laws.

A. Public safety, a governmental program, or a specific public event: An application for temporary authority involving public safety, a governmental program or a specific public event must be submitted with the original application or at least five days prior to the expiration of the notice period. The applicant must also provide:

(1) affidavits from one or more persons having urgent need of the service; and

(2) a statement regarding either the nonexistence of, or inadequate service provision by, motor carriers authorized to provide the needed service in that territory.

B. Hearing of a contested application: An applicant subject to a hearing on its original application may submit a motion for a grant of temporary authority or temporary rate increase for a term extending until the department issues its final decision on the original application. The authority may be modified in the temporary authority in consideration of the issues raised in the objections of the parties to the hearing.

[18.3.2.10 NMAC - Rp, 18.3.2.25 NMAC, 7/1/2024]

18.3.2.11 NOTICES: Notices are posted on the department's website and sent to all motor carriers and other persons or entities who have previously submitted an electronic address for the purpose of receiving such notices. Notice is required as required by law for all complete certificate applications (including for amendment, lease or transfer), existing and proposed tariffs, certain proposed rate increases, certain contemplated penalties, proposed rulemakings, and orders of general application.

[18.3.2.11 NMAC - Rp, 18.3.2.15 NMAC 7/1/2024]

18.3.2.12 REVIEW AND ISSUANCE: Applications are complete once all the information and documentation required is submitted and the requisite fees are received. Applications must be complete prior to the noticing and consideration by the department. Completed applications are reviewed for legal compliance. The applicant shall be notified of any deficiencies and given an opportunity to submit corrections. Operating authorities are issued in the company or sole proprietor's name and not in the trade or "doing business as" name.

A. Warrants: A warrant will generally be issued once a completed application is determined to satisfy all legal requirements. For a towing service seeking to provide non-consensual tows, the proposed tariff must be approved by the department prior to issuance of the warrant.

B. Certificates: A certificate (new, amended, lease or transfer) will generally be issued after the notice period only if the completed application is uncontested and determined to satisfy all legal requirements. A certificate for passenger services may be delayed, modified, or not issued if the application is contested during the notice period since the department is required to consider the issues. Furthermore, some issues may require a full hearing for proper consideration. If an application is contested and the issue is set for a hearing, the applicant may apply for a temporary authority to provide services until the hearing process is concluded and the department issues a determination.

[18.3.2.12 NMAC - Rp, 18.3.2.14 NMAC, 7/1/2024]

18.3.2.13 CONTESTED CERTIFICATE APPLICATIONS: During the notice period, an application for a certificate (including for amendment, lease or transfer) for passenger services may be contested by protest or objection, or by the department if staff require a hearing on the application.

A. Protests. Only full service carriers may file a protest of a certificate application. A protest is deemed denied if it is not submitted with the requisite fee during the notice period. A protest must include:

- (1) a copy of the protestor's full service operating authority;
- (2) a description of how the proposed service territory in the certificate application overlaps with the protestor's existing certificated service territory; and
- (3) if the protestor is not an ambulance service, a reasonable description of the potential adverse impact the granting of the certificate application would have on the existing provision of full service passenger services to the public within the protestor's full service territory;
- (4) a protesting carrier meeting these requirements may proceed to a hearing on the application as an intervenor;
- (5) if a protesting carrier withdraws the protest, withdraws as an intervenor or fails to appear at the hearing, the application shall be processed as an uncontested application.

B. Objections: Anyone may file an objection to, or offer information regarding, a certificate application during the notice period. The department is not required to, but may, hold a hearing on a timely objection.

[18.3.2.13 NMAC - Rp, 18.3.2.16 NMAC, 7/1/2024]

18.3.2.14 REQUIRED TERMS AND CONDITIONS OF SERVICE:

A. Requirements for all motor carriers:

(1) **Service restrictions:** The provisions governing the scope, terms and conditions of motor carrier services are provided in the applicable statutes, rules and the specifications of each operating authority. Authorized services must be provided consistent with these governing provisions, including service definitions.

(2) **Placement of operating authorities:** An operating authority must be maintained by the motor carrier at the principal place of business identified in the application, and a copy of the authority for the specific service type being provided must be carried in each vehicle that a motor carrier operates in New Mexico.

(3) **Financial responsibility:** The required amounts and types of financial responsibility must be continuously maintained for the authorized services for all periods of operation.

(4) **Safety requirements:** All vehicles, equipment, drivers and applicable resources must be properly inspected and maintained to ensure that all safety requirements are satisfied at all times. Motor carriers are prohibited from placing a motor vehicle into service that has any defect or deficiency that may be capable of causing an accident or mechanical malfunction.

B. Certificate requirements for all passenger services:

(1) **Continuous and adequate service:** All certificate holders must ensure that the offering of its transportation services is reasonably and continuously available to the public. For full service carriers, the provision of services must meet the prescribed standards and be reasonably and continuously available to the public within the entire authorized service territory.

(2) **Notice for consumer concerns:** The following notice must be posted in a space visible to the public passengers in each vehicle, as well as in the motor carrier's principal place of business: "This motor carrier operates pursuant to New Mexico Operating Authority No. ___ (insert appropriate number), issued by the New Mexico Department of Transportation. If you have any questions or concerns regarding the services provided, you may contact the company's management at: ___ (insert phone number). If the management is unable to resolve your concerns, you may contact the New Mexico Department of Transportation at: 505-795-1401."

(3) **Passenger comfort:** A passenger service carrier shall ensure that every motor vehicle it operates is clean and equipped with a heating, cooling, and air filtration system capable of providing a reasonable level of comfort inside the motor vehicle.

(4) **Security of property:** No passenger service carrier may transport unsecured property (including baggage) in any quantity or manner that endangers, or interferes with the comfort or safety of, passengers or obscures the driver's view.

C. Taxi service requirements: The following terms and conditions apply to municipal and general taxi services:

(1) **Shortest route:** Unless expressly requested to do otherwise, a taxicab service shall transport metered-fare passengers over the shortest available route. A predetermined full fare shall be calculated on the basis of the shortest available route.

(2) **Posting of rates:** Rates for metered services must be posted in the passenger compartment of the vehicle in a manner that is readily accessible and viewable.

(3) **Multiple passengers, rate:** Rates for multiple passengers shall be based on one charge based on metered rates for the first person and an additional small fixed charge for each additional person. Alternatively, at the passenger's option, a predetermined calculated full fare based on drop flag and mileage component rates as provided by tariff, and may use surge pricing as provided by tariff;

(4) **Direction.** Exclusive direction shall be granted to the first person engaging the taxicab;

(5) **Requests for service:** A taxicab may respond only to street hailed requests, pre-arranged service requests (when call for service is received 30 minutes or more before service is required), and requests issued by the dispatch service.

D. Scheduled shuttle service requirements:

(1) **Posting of schedules:** A scheduled shuttle service 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.

(2) **Compliance with time schedules required:** A scheduled shuttle service picking up passengers may delay its departure when reserved passengers are delayed as a result of another carrier's late arrival or delayed baggage handling, provided that:

(3) **Delay for reserved passengers:** If a vehicle has no loaded passengers and has no other pickup points on its route, the scheduled shuttle service may delay its departure for late arriving reserved passengers;

(4) **Delay of passengers:** If a vehicle has passengers loaded, but has no other pickup points on its route, the vehicle may delay its departure by up to 15 minutes past its scheduled departure time.

(5) **Interruption of service reports:** Each scheduled shuttle service shall promptly report in writing any interruption in service which is likely to continue for more than 24 hours, stating in detail the cause of the interruption and its expected duration.

E. Non-emergency medical transport service requirements: Prohibited from transport of passengers who require medical monitoring or intervention to maintain their level of response, airway, breathing and circulatory status, with the exception of self-administered oxygen not to exceed six liters per minute via a nasal cannula; the oxygen container must be secured in accordance with other state and federal laws.

F. Warranted charter service requirements:

(1) **Prohibited terms.** A charter service is prohibited from using the terms bingo bus, commuter service, shared ride, shuttle or terminal shuttle service in its business name, vehicle markings and advertising; and

(2) **Prearranged contracts:** A single prearranged written contract that is not arranged, accepted, entered into or paid for by the driver, must be entered into with the group prior to providing services. [18.3.2.14 NMAC - Rp, 18.3.2.9, & 18.3.2.20 through 18.3.2.24 NMAC, 7/1/2024]

- 18.3.2.15 [RESERVED]
- 18.3.2.16 [RESERVED]
- 18.3.2.17 [RESERVED]
- 18.3.2.18 [RESERVED]
- 18.3.2.19 [RESERVED]
- 18.3.2.20 [RESERVED]
- 18.3.2.21 [RESERVED]
- 18.3.2.22 [RESERVED]
- 18.3.2.23 [RESERVED]
- 18.3.2.24 [RESERVED]
- 18.3.2.25 [RESERVED]
- 18.3.2.26 [RESERVED]

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 3/14/1968; SCC 71-6, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1971, filed on 9/21/1971; SCC 73-1, N.M. Motor Carrier Act, Rules and Regulations, filed on 6/14/1973; SCC 74-1, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1973, filed on 2/5/1974; SCC 75-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1975, filed on 4/17/1975;

SCC 75-3, N.M. Motor Carrier Act, Rules and Regulations (Rev.), effective Jan. 1, 1975, filed on 9/19/1975;
SCC 76-1, N.M. Motor Carrier Act, Rules and Regulations, effective April 1, 1976, filed on 4/15/1976;
SCC 77-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1977, filed on 1/25/1977;
SCCMC Rule No. 4, Application for Certificates and Permits, filed on 3/5/1982;
SCCMC Rule No. 25, Pet Animals, filed on 3/5/1982;
SCCMC Rule No. 27, Bus Express, filed on 3/5/1982;
SCCMC Rule No. 32, Continuous and Adequate Service, filed on 3/5/1982;
SCCMC Rule No. 33, Business-Like Operations, filed on 3/5/1982;
SCCMC Rule No. 43, Hearing on Application-Public Notice, filed on 3/5/1982;
SCC Rule 207, Emergency Rule Governing Motor Carriers of Property, filed on 1/5/1993;
SCC Rule 211, General Operating Authority Provisions, filed on 1/5/1993;
SCC Rule 212, Certificates of Public Convenience and Necessity for Common Motor Carriers, filed on 1/5/1993;
SCC Rule 213, Permits for Contract Motor Carriers, filed on 1/5/1993;
SCC Rule 214, Warrants for Limited Operating Authority, filed on 1/5/1993;
SCC Rule 216, Licenses for Transportation Brokers, filed on 1/5/1993;
SCC Rule 217, Emergency and Temporary Authority, filed on 1/5/1993;
SCC Rule 221, Tariffs, Rates and Schedules, filed on 1/5/1993;
SCC Rule 231, General Compliance Requirements, filed on 1/5/1993;
SCC Rule 251, Motor Carriers of Persons-General Provisions, filed on 1/5/1993;
SCC Rule 261, Motor Carriers of Property-General Provisions, filed on 1/5/1993;
SCC Rule 273, Administrative Enforcement Proceedings, filed on 1/5/1993.

History of Repealed Material:

SCC Rule 207, Emergency Rule Governing Motor Carriers of Property (filed 1/5/1993) repealed 12/30/2002.
SCC Rule 211, General Operating Authority Provisions (filed 1/5/1993) repealed 12/30/2002.
SCC Rule 212, Certificates of Public Convenience and Necessity for Common Motor Carriers (filed 1/5/1993) repealed 12/30/2002.
SCC Rule 213, Permits for Contract Motor Carriers (filed 1/5/1993) repealed 12/30/2002.
SCC Rule 214, Warrants for Limited Operating Authority (filed 1/5/1993) repealed 12/30/2002.
SCC Rule 216, Licenses for Transportation Brokers (filed 1/5/1993) repealed 12/30/2002.
SCC Rule 217, Emergency and Temporary Authority (filed 1/5/1993) repealed 12/30/2002.
SCC Rule 221, Tariffs, Rates and Schedules (filed 1/5/1993) repealed 12/30/2002.
SCC Rule 231, General Compliance Requirements (filed 1/5/1993) repealed 12/30/2002.
SCC Rule 251, Motor Carriers of Persons-General Provisions (filed 1/5/1993) repealed 12/30/2002.
SCC Rule 261, Motor Carriers of Property-General Provisions (filed 1/5/1993) repealed 12/30/2002.
SCC Rule 273, Administrative Enforcement Proceedings (filed 1/5/1993) repealed 12/30/2002.
18.3.2 NMAC, Motor Carrier General Provisions - Operating Authorities (filed 12-16-04); repealed 2/13/2015.
18.3.2 NMAC, Motor Carrier General Provisions - Operating Authorities (filed 1/28/2015); repealed 7/1/2024.

Other History:

SCC Rule 207, Emergency Rule Governing Motor Carriers of Property (filed 1/5/1993); SCC Rule 211, General Operating Authority Provisions (filed 1/5/1993); SCC Rule 212, Certificates of Public Convenience and Necessity for Common Motor Carriers (filed 1/5/1993); SCC Rule 213, Permits for Contract Motor Carriers (filed 1/5/1993); SCC Rule 214, Warrants for Limited Operating Authority (filed 1/5/1993); SCC Rule 216, Licenses for Transportation Brokers (filed 1/5/1993); SCC Rule 217, Emergency and Temporary Authority (filed 1/5/1993); SCC Rule 221, Tariffs, Rates and Schedules (filed 1/5/1993); SCC Rule 231, General Compliance Requirements (filed 1/5/1993); SCC Rule 251, Motor Carriers of Persons-General Provisions (filed 1/5/1993); SCC Rule 261, Motor Carriers of Property-General Provisions (filed 1/5/1993); and SCC Rule 273, Administrative Enforcement Proceedings (filed 1/5/1993) all replaced by 18.3.2 NMAC, Operating Authorities, effective 12/30/2002.
18.3.2 NMAC, Operating Authorities (filed 12-16-04) was replaced by 18.3.2 NMAC, Operating Authorities, effective 2/13/2015.
18.3.2 NMAC, Operating Authorities (filed 1/28/2015) was replaced by 18.3.2 NMAC, Operating Authorities, effective 7/1/2024.