

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

18.3.4.1 ISSUING AGENCY: New Mexico Department of Transportation.
[18.3.4.1 NMAC - Rp, 18.3.4.1 NMAC, 7/1/2024]

18.3.4.2 SCOPE: This rule applies to all motor carriers subject to the jurisdiction of the department.
[18.3.4.2 NMAC - Rp, 18.3.4.2 NMAC, 7/1/2024]

18.3.4.3 STATUTORY AUTHORITY: Sections 65-2A-4, 65-2A-19 and 65-6-4 NMSA 1978, and 2023 N.M. Laws, Chapter 100, Section 81.
[18.3.4.3 NMAC - Rp, 18.3.4.3 NMAC, 7/1/2024]

18.3.4.4 DURATION: Permanent.
[18.3.4.4 NMAC - Rp, 18.3.4.4 NMAC, 7/1/2024]

18.3.4.5 EFFECTIVE DATE: July 1, 2024, unless a later date is cited at the end of a section.
[18.3.4.5 NMAC - Rp, 18.3.4.5 NMAC, 7/1/2024]

18.3.4.6 OBJECTIVE: The purpose of this rule is to implement Sections 65-2A-19 and 65-6-4 NMSA 1978 by establishing safety requirements for drivers, motor vehicles, and motor carriers.
[18.3.4.6 NMAC - Rp, 18.3.4.6 NMAC, 7/1/2024]

18.3.4.7 DEFINITIONS: As used in this rule:
A. CDL driver means a driver who is required by 49 CFR 383.3 or Section 66-5-59 NMSA 1978 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;
C. MVD means the motor vehicle division of the New Mexico taxation and revenue department.
[18.3.4.7 NMAC - Rp, 18.3.4.7 NMAC, 7/1/2024]

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/>.
[18.3.4.8 NMAC - Rp, 18.3.4.8 NMAC, 7/1/2024]

18.3.4.9 SUBSTITUTION OF TERMS ADOPTED FROM FEDERAL LAW: Wherever the following terms appear in a part or section of title 49 of the code of federal regulations (CFR), for purposes of this rule and as adopted by reference in this rule, these federal terms shall be read as if substituted by the terms provided below.

A. for the terms "commerce" and "interstate commerce", substitute "intrastate commerce," as it is 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 Section 65-2A-3 NMSA 1978, except for when these terms are used in 49 CFR Section 391.21(b)(11). For purposes of this rule, the term "motor vehicle" shall not be understood to include any limitations based on gross combination weight rating, gross vehicle weight rating, or passenger seating capacity; and
C. for the abbreviation "FMCSA" (federal motor carrier safety administration), substitute "department of transportation" or "DOT".
[18.3.4.9 NMAC - Rp, 18.3.4.9 NMAC, 7/1/2024]

18.3.4.10 REQUIREMENTS APPLICABLE TO ALL DRIVERS: Motor carriers shall require and ensure that all drivers in their service, including themselves, comply with the duties and prohibitions of these rules.

A. Drug and alcohol programs and testing for drivers: This rule adopts by reference 49 CFR Part 40 in its entirety, and 49 CFR Section 382, except for Sections 382.117 and 382.119.

B. Hours of service: Ambulance services shall adopt and enforce a policy governing hours of service for their drivers. For other motor carriers the following restrictions apply to:

(1) drivers operating for taxicab services, non-emergency medical transportation services, specialized passenger services, and intrastate shuttle service with passenger capacity of 15 or less, a driver shall not drive the service vehicle for more than 12 hours out of any 24 hour period;

(2) all other drivers, this rule adopts by reference 49 CFR Part 395, 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.”

C. Pre-employment criminal and driver background reports: Prior to hiring or contracting with a potential driver, all motor carriers shall obtain a nationwide criminal record report and a nationwide motor vehicle report (MVR) to review that candidate’s prior record for any relevant public safety violations. For household goods service carriers, a criminal background report is additionally required for each employee entering private dwellings. [18.3.4.10 NMAC - Rp, 18.3.4.10 NMAC, 7/1/2024]

18.3.4.11 REQUIREMENTS APPLICABLE ONLY TO CDL DRIVERS:

A. Commercial drivers’ licenses: This rule adopts by reference the New Mexico commercial driver’s license act, Sections 66-5-52 through 66-5-72 NMSA 1978.

B. Qualifications of drivers and longer combination vehicle (LCV) driver instructors: This rule adopts by reference 49 CFR Part 391, 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 49CFR Part 392 in its entirety.

D. Parts and accessories necessary for safe operation: This rule adopts by reference 49 CFR Part 393 in its entirety.

E. Inspection, repair and maintenance: This rule adopts by reference 49 CFR Part 396 in its entirety.

F. Transportation of hazardous material; driving and parking rules: This rule adopts by reference 49 CFR Part 397 in its entirety.

[18.3.4.11 NMAC – Rp, 18.3.4.11 NMAC, 7/1/2024]

18.3.4.12 REQUIREMENTS APPLICABLE ONLY TO NON-CDL DRIVERS:

A. Operators’ licenses: This rule adopts by reference the licensing provisions of the New Mexico motor vehicle code, Sections 66-5-1 through 66-5-48, NMSA 1978.

B. Qualifications, investigations, inquiries, reporting, records, driving, equipment, inspection repair and maintenance by and for all passenger vehicles and drivers:

(1) Before allowing a transportation service driver to provide carriage:

(a) the prospective driver shall submit an application to the transportation service that includes the individual's address, age, driver's license number and state, and driving history;

(b) the transportation service shall obtain a local and national criminal background check for the prospective driver that shall include:

(i) multistate or multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation and primary source search; and

(ii) a national sex offender registry; and

(iii) the transportation service shall obtain and review a driving history research report for the prospective driver.

(2) A transportation service shall not permit a person to act as a transportation service driver who:

(a) has had more than three moving violations in the preceding three-year period or one violation in the preceding three-year period involving any attempt to evade law enforcement, reckless driving or driving on a suspended or revoked license;

(b) has been convicted within the past seven years of:

(i) a felony;

(ii) misdemeanor driving under the influence, reckless driving, leaving the scene of an accident or any other driving-related offense or any misdemeanor violent offense or sexual offense; or

- (c) more than three misdemeanors of any kind;
- (d) is identified by a national sex offender registry;
- (e) does not possess a valid license; or
- (f) is not at least 21 years old.

(3) A transportation service shall not use a small passenger vehicle that:

- (a) is not in compliance with all federal, state and local laws concerning the operation and maintenance of the motor vehicle;
- (b) has fewer than four doors; or
- (c) is designed to carry more than eight passengers, including the driver.

(4) A transportation service shall inspect or cause to be inspected every motor vehicle used by a driver to provide transportation services before allowing the driver to use the motor vehicle to provide transportation services and not less than once each year thereafter. The type of inspection required shall follow the Commission rules for annual inspections for transportation network company service driver vehicles promulgated as 18.17.1.8 NMAC.

(5) Provided that passenger services may voluntarily adopt and implement other more stringent policies and procedures for small passenger vehicles and drivers of small passenger vehicles, including full or modified forms of federal safety policies and procedures.

C. Qualifications of drivers: This rule adopts by reference only the following specific sections of 49 CFR Part 391:

- (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 Section 391.23(d)(2) the term “as specified in section 390.15(b)(1) of this chapter” is substitute for this rule by the term, “in the uniform crash report form prescribed by the state of New Mexico”;
- (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; except that 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 (EMS) bureau of the department of health (DOH);
- (8) **physical qualifications for drivers:** Section 391.41, except that drivers for ambulance are exempt from Section 391.41(a);
- (9) **medical examinations; certificate of physical examination:** Section 391.43, except that for volunteer drivers of ambulance services only, the medical examiner (as defined in 49 CFR Section 390.5) shall perform a medical examination sufficient to enable the medical examiner to certify, in accordance with Subsection C of 18.19.5.33 NMAC, whether or not the driver has a condition that may interfere with the safe operation of an ambulance;
- (10) **persons who must be medically examined and certified:** Section 391.45, except that this section shall not apply to volunteer drivers;
- (11) **general requirements for driver qualification files:** Section 391.51, except that Subsections 391.51(b)(8) and (d)(5) are not adopted;
- (12) **driver investigation history file:** Section 391.53, except that this section shall not apply to commuter services.

D. Driving of commercial motor vehicles: This rule adopts by reference the following sections of 49 CFR Part 392:

- (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, except that this section is amended to substitute “Section 66-3-849 NMSA 1978”, certain vehicles to carry flares or other warning devices, for the federal reference to “Section 393.95”;

(5) **inspection of cargo, cargo securement devices and systems:** Section 392.9, except that this section shall 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, except that 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;

(13) **carbon monoxide; use of commercial motor vehicle when detected:** Section 392.66;

(14) **radar detectors; use and/or possession:** Section 392.71.

E. Equipment for vehicles, seatbelts and child restraints: This rule adopts by reference Sections 66-3-801 through 66-3-901 NMSA 1978. In addition, passenger vehicles capable of transporting 15 or fewer persons including the driver shall provide a separate seat belt assembly for each passenger and shall ensure child restraint systems comply with all federal and state requirements.

F. Inspection, repair and maintenance for vehicles: This rule adopts by reference the following sections of 49 CFR Part 396:

(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;

(4) **driver inspection:** Section 396.13;

(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 - Rp, 18.3.4.12 NMAC, 7/1/2024]

18.3.4.13 IDENTIFICATION OF EQUIPMENT:

A. Issuance: The department shall assign an operating authority number to each motor carrier service when it issues an operating authority. Any operating authority number issued shall be 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 operating authority number will be displayed in the following manner: "NM 123".

(1) **Placement on limousines:** The NM operating authority 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 NM operating authority number must be distinctly displayed and permanently affixed to the right and left doors, or sides of the power unit, of each motor vehicle operated in New Mexico, except that for motor vehicles leased or rented for authorized operations the required display need not be permanently affixed.

C. Exceptions:

(1) Interstate motor carriers that display a federal operating authority number are not required to display the NM operating authority number.

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

[18.3.4.13 NMAC - Rp, 18.3.4.13 NMAC, 7/1/2024]

18.3.4.14 MINIMUM EQUIPMENT STANDARDS: A motor carrier shall only use equipment for vehicles that is produced and constructed by a manufacturer of such equipment that regularly produces such equipment of guaranteed quality. The department may approve the use of non-guaranteed equipment only if the

motor carrier submits a written request for use of such equipment accompanied by a verified statement from a reputable testing laboratory regularly engaged in the testing of the same equipment to certify that the equipment is appropriate for the intended purpose. The motor carrier shall bear all costs of testing and certification.
[18.3.4.14 NMAC - Rp, 18.3.4.14 NMAC, 7/1/2024]

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 3/5/1982;
SCCMC Rule No. 6, Qualifications of Drivers, filed on 3/5/1982;
SCCMC Rule No. 7, Driving of Motor Vehicles, filed on 3/5/1982;
SCCMC Rule No. 8, Emergency Equipment, filed on 3/5/1982;
SCCMC Rule No. 9, Securing of Load and Equipment, filed on 3/5/1982;
SCCMC Rule No. 11, Emergency Signals, filed on 3/5/1982;
SCCMC Rule No. 12, Head Lamps and Auxiliary Road Lighting Lamps, filed on 3/5/1982;
SCCMC Rule No. 13, Brakes, filed on 3/5/1982;
SCCMC Rule No. 14, Equipment Required on Certain Vehicles, filed on 3/5/1982;
SCCMC Rule No. 15, Windshields Must be Unobstructed and Equipped with Wipers, filed on 3/5/1982;
SCCMC Rule No. 16, Mirrors, filed on 3/5/1982;
SCCMC Rule No. 17, Horns and Warning Devices, filed on 3/5/1982;
SCCMC Rule No. 37, Slick Tires, filed on 3/5/1982;
SCCMC Rule No. 39, Identification of Equipment, filed on 3/5/1982;
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;
SCC Rule 207, Emergency Rule Governing Motor Carriers of Property, filed on 12/28/1994;
SCC Rule 231, General Compliance Requirements, filed on 1/5/1993;
SCC Rule 231, General Compliance Requirements, filed on 10/27/1993.
SCC Rule 241, Records of Motor Transportation Entities, filed on 1/5/1993.

History of repealed material.

SCC Rule 207, Emergency Rule Governing Motor Carriers of Property (filed 12/28/1994) repealed 12/30/2002.
SCC Rule 231, General Compliance Requirements (filed 10/27/1993) repealed 12/30/2002.
SCC Rule 241 Records of Motor Transportation Entities (filed 1/5/1993) repealed 12/30/2002.
18.3.4 NMAC, Qualifications of Drivers (filed 12/10/2002) repealed 1/1/2005.
18.3.4 NMAC, Operating Requirements (filed 12/10/2002) repealed 1/1/2005.
18.3.4 NMAC, Operating Requirements (filed 12-16-2004) repealed 2/13/2015.
18.3.4 NMAC, Operating Requirements (filed 1/28/2015) repealed 7/1/2024.

Other History:

That applicable portion of SCC Rule 231, General Compliance Requirements (filed 10/27/1993) replaced by 18.3.4 NMAC, Qualifications of Drivers effective 12/30/2002;
SCC Rule 207, Emergency Rule Governing Motor Carriers of Property (filed 12/28/1994); that applicable portion of SCC Rule 231, General Compliance Requirements (filed 10/27/1993); and SCC Rule 241 Records of Motor Transportation Entities (filed 1/5/1993) 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 1/1/2005.
18.3.4 NMAC, Safety Requirements (filed 12/16/2004) was replaced by 18.3.4 NMAC, Safety Requirements, effective 2/13/2015.
18.3.4 NMAC, Safety Requirements (filed 1/28/2015) was replaced by 18.3.4 NMAC, Safety Requirements, effective 7/1/2024.