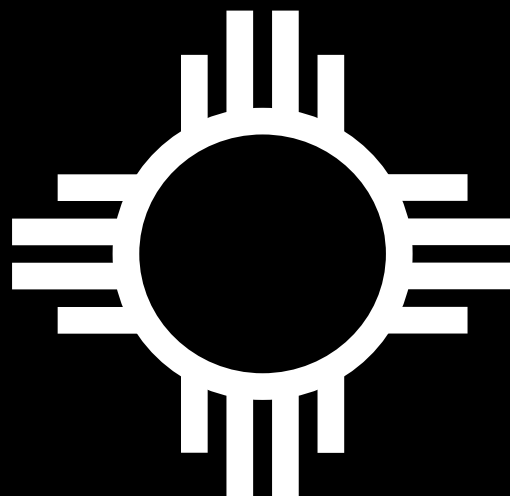


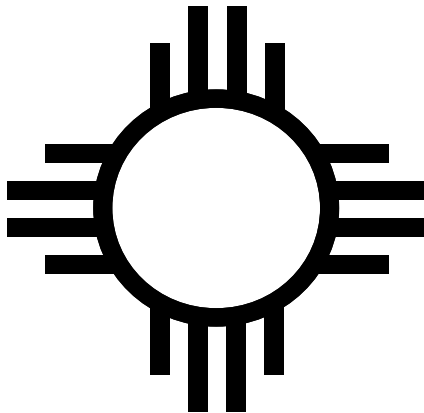
**NEW
MEXICO
REGISTER**



Volume XXVI
Issue Number 3
February 13, 2015

New Mexico Register

**Volume XXVI, Issue Number 3
February 13, 2015**



The official publication for all notices of rulemaking and filings of
adopted, proposed and emergency rules in New Mexico

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2015

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New Mexico Register

Volume XXVI, Number 3

February 13, 2015

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Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. “No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico register as provided by the State Rules Act. Unless a later date is otherwise provided by law, the effective date of a rule shall be the date of publication in the New Mexico register.” Section 14-4-5 NMSA 1978.

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Notices of Rulemaking and Proposed Rules

NEW MEXICO PUBLIC EMPLOYEES LABOR RELATIONS BOARD

NOTICE OF PROPOSED RULEMAKING

The New Mexico Public Employee Labor Relations Board ("NMPELRB") hereby gives notice that it will conduct a public rule hearing at its offices at 2929 Coors Blvd. NW, Albuquerque, NM 87102 on Tuesday March 17, 2015, at 9:00 a.m. The purpose of the public hearing will be to correct typographical errors and obtain input on the proposed amendment of existing rules codified as 11.21.1 NMAC General Provisions, 11.21.2 NMAC Representation Proceedings, 11.21.3 Prohibited Practices Proceedings and 11.21.5 NMAC Approval of Local Boards.

Interested individuals may provide comments at the public hearing and/or submit written comments to Thomas Griego, Executive Director, New Mexico Public Employee Labor Relations Board, 2929 Coors Blvd. NW, Albuquerque, NM 87102 (Tom.Griego@state.nm.us) (505) 831-5422, fax (505) 831-8820. Written comments must be received no later than 5:00 p.m. on the date of the hearing. However, the submission of written comments as soon as possible is encouraged. Parties seeking to attend the public hearing telephonically must inform Mr. Matthew Abousleman, Executive Administrative Assistant, at the address or phone number above or by e-mail at MatthewJ.Abousleman@state.nm.us, no later than 5:00 p.m. on Tuesday March 10. Copies of the proposed rules may be accessed on the Board's website (<http://www.pelrb.state.nm.us>), or obtained from Mr. Abousleman at the email address or phone number indicated.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in either of these meetings are asked to contact Mr. Abousleman as soon as possible. The NMPELRB requires at least 10 days advance notice to provide requested special accommodations.

NEW MEXICO REGULATION AND LICENSING DEPARTMENT BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS

LEGAL NOTICE

Public Rule Hearing and Regular Board Meeting

The New Mexico Board of Licensure for Professional Engineers and Professional Surveyors will hold a Rule Hearing on Friday, March 27, 2015. Following the Rule Hearing the New Mexico Board of Licensure for Professional Engineers and Professional Surveyors will convene a regular meeting to adopt the rules and take care of regular business. The New Mexico Board of Licensure for Professional Engineers and Professional Surveyors Rule Hearing will begin at 10:00 a.m. and the Regular Board Meeting will convene following the rule hearing. The meeting will be held at the Department of Transportation, District 3, 7500 Pan American, Albuquerque, NM, 87199, in the Auditorium Room.

The purpose of the rule hearing is to consider adoption of proposed amendments, to the following Board Rules and Regulations in 16.39.1 General Provisions, 16.39.2 Professional Development, 16.39.3 Engineering, Fees, 16.39.4 Incidental Practice, 16.39.5 Surveying, 16.39.6 Licensure for Military Service Members, Spouses and Veterans, 16.39.7 Miscellaneous, 16.39.8 Code of Professional Conduct.

You can contact the board office at the Toney Anaya Building located at 2550 Cerrillos Road in Santa Fe, New Mexico 87505, call (505) 476-4565 or (505) 476-4656 or copies of the proposed rules are available on the BLPEPS board's website: www.sblpes.state.nm.us. In order for the Board members to review the comments in their meeting packets prior to the meeting, persons wishing to make comment regarding the proposed rules must present them to the Board office in writing no later than March 16, 2015. Persons wishing to present their comments at the hearing will need fifteen (15) copies of any comments or proposed changes for distribution to the Board and staff.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, but you need

a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to participate, please call the Board office at (505) 476-4565 or (505) 476-4656 at least two weeks prior to the meeting or as soon as possible.

NEW MEXICO TAXATION AND REVENUE DEPARTMENT

NEW MEXICO TAXATION AND REVENUE DEPARTMENT NOTICE OF HEARING AND PROPOSED RULES

The New Mexico Taxation and Revenue Department proposes to adopt the following rule:

Property Tax Code

3.6.5.36 NMAC Section 7-36-29
NMSA 1978
(Special Method of Valuation –
Property Used for the Generation,
Transmission or Distribution of
Electrical Power or Energy)

This proposal was placed on file in the Office of the Secretary on January 30, 2015. Pursuant to Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act, the final of this proposal, if filed, will be filed as required by law on or about April 16, 2015.

A public hearing will be held on this proposal on Wednesday, March 25, 2015, at 9:30 a.m. in the Secretary's Conference Room on the third floor of the Joseph M. Montoya Building, 1100 St. Francis Drive, Santa Fe, New Mexico. Auxiliary aids and accessible copies of the proposals are available upon request; contact (505) 827-0928. Comments on the proposals are invited. Comments may be made in person at the hearing or in writing. Written comments on the proposal should be submitted to the Taxation and Revenue Department, Director of Tax Policy, Post Office Box 630, Santa Fe, New Mexico 87504-0630 on or before March 25, 2015.

3.6.5.36 SPECIAL METHOD
OF VALUATION - PROPERTY
USED FOR THE GENERATION,
TRANSMISSION OR DISTRIBUTION
OF ELECTRICAL POWER OR ENERGY
A. ELECTRIC [POWER]
PLANT - PROPERTY TO BE VALUED:
(1) Property to be
valued as property "used for the generation,

transmission or distribution of electrical power or energy” includes property which is used in the conduct of a public utility business and property that is “an electricity generating plant, whether or not owned by a public utility, if all or part of the electricity is generated for ultimate sale to the consuming public”.

(2) For purposes of Subsection B of Section 7-36-29 NMSA 1978, “other justifiable factors” for solar energy technologies includes, but is not limited to, the amount of:

(a) federal investment tax credit received by the property owner of the electric plant for the purchase of solar energy technologies; and

(b) federal grants awarded to a property owner under the 1603 Treasury Program in lieu of the federal investment tax credit for solar energy technologies.

B. ELECTRIC [POWER] PLANT - DEPRECIATION:

(1) For calculating depreciation or related accumulated provision for depreciation, straight line depreciation over the useful life of the item of property, as determined by federal or state regulatory agencies having jurisdiction, shall be used.

(2) If the property does not fall under federal or state regulatory agency authority, the division establishes the useful life of the property in accordance with its class life under Section 167 of the Internal Revenue Code and regulations thereunder. The land portion of the tangible property costs of the plant is the total actual costs of acquisition of the land as of January 1 of the tax year in which the property is valued.

C. ELECTRIC [POWER] PLANT - CONSTRUCTION WORK IN PROGRESS: “Construction work in progress” as that phrase is defined in Paragraph (3) of Subsection B of Section 7-36-29 NMSA 1978 is valued in accordance with the valuation method stated in Subsection D of Section 7-36-29 NMSA 1978. Those persons who maintain their records in accordance with a uniform system of accounts approved by state or federal regulatory agencies may use the amount entered on those accounts as construction work in progress as of December 31 of the preceding calendar year as the value of construction work in progress, provided that account is limited to work orders for “electric plant” as defined in Paragraph (2) of Subsection B of Section 7-36-29 NMSA 1978 and Section 3.6.5.36 NMAC.

D. ELECTRIC [POWER] PLANT - GENERAL BUILDINGS AND IMPROVEMENTS - LAND:

(1) “General

buildings and improvements” defined in Paragraph (2) of Subsection B of Section 7-36-29 NMSA 1978 are valued in accordance with the method stated in Section 7-36-15 NMSA 1978, and regulations thereunder.

(2) Land used in the conduct of a public utility business or which is a part of an electricity generating plant, whether or not owned by a public utility, if all or part of the electricity is generated for ultimate sale to the consuming public, is valued in accordance with the valuation methods stated in Section 7-36-15 NMSA 1978, and regulations thereunder.

End of Notices and Proposed Rules Section

Adopted Rules

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

This is an amendment to 20.2.1 NMAC, Sections 108, 111, and 116; adding Section 117; and an update to the annotation following the history note for Section 5, effective 02/27/15.

20.2.1.5 EFFECTIVE DATE: October 27, 1995, unless a later date is cited at the end of a section.
[09/05/95, 10/27/95; 20.2.1.5 NMAC - Rn, 20 NMAC 2.1.104, 10/31/02; A, 06/01/10]
[The latest effective date of any section in this part is ~~[06/01/10]~~ 02/27/15]

20.2.1.108 SAVING CLAUSE: Supersession of any Air Quality Control Regulation (AQCR) shall not ~~[effect]~~ affect any administrative or judicial enforcement action pending on the effective date of any part under Chapter 2 of Title 20, nor the validity of any permit issued pursuant to any AQCR.
[09/05/95; 20.2.1.108 NMAC - Rn, 20 NMAC 2.1.108, 10/31/02; A, 02/27/15]

20.2.1.111 AVAILABILITY OF MATERIALS INCORPORATED BY REFERENCE: Materials incorporated by reference into any part under Chapter 2 of Title 20 may be viewed at the state records center [~~(404 Montezuma, Santa Fe, NM-87503)~~ ~~(1205 Camino Carlos Rey, Santa Fe, NM-87505)]~~ or at the New Mexico environment department, air quality bureau [~~(Harold Runnels Building, 1190 St. Francis Dr., Santa Fe, NM-87503)~~ ~~(2048 Galisteo St., Santa Fe, NM-87505)]~~.
[09/05/95; 20.2.1.111 NMAC - Rn, 20 NMAC 2.1.111 10/31/02; A, 02/27/15]
[As of 02/27/15, the State Records Center is located at 1205 Camino Carlos Rey, Santa Fe, NM 87505; and the New Mexico Environment Department, Air Quality Bureau, is located at 525 Camino de los Marquez, Suite 1, Santa Fe, NM, 87505]

20.2.1.116 SIGNIFICANT FIGURES:

A. All emissions standards are deemed to have at least two significant figures, but not more than three significant figures.

B. At least five significant figures shall be retained in all intermediate calculations.

C. In calculating emissions to determine compliance with an emission standard, the following rounding off procedures shall be used:

(1) if the first digit to be discarded is less than the number five, the last digit retained shall not be changed;

(2) if the first digit discarded is greater than the number five, or if it is the number five followed by at least one digit other than the number zero, the last figure retained shall be increased by one unit; and

(3) if the first digit discarded is exactly the number five, followed only by zeros, the last digit retained shall be rounded upward if it is an odd number, but no adjustment shall be made if it is an even number.

~~[(4)]~~ **D.** The final result of the calculation shall be expressed in the units of the standard.
[20.2.1.116 NMAC - N, 06/01/10; A, 02/27/15]

20.2.1.117 ELECTRONIC REPORTING AND PERMIT APPLICATIONS:

A. Applicability. Pursuant to the *Cross-Media Electronic Reporting Rule* (CROMERR) as defined by Title 40 of the Code of Federal Regulations (CFR) Part 3, and the *Uniform Electronic Transactions Act*, NMSA 1978, Sections 14-16-1 to -21 (2001 as amended through 2013), any submittal to the department required by any part under Chapter 2, *Air Quality (Statewide)*, of Title 20, *Environmental Protection*, of the New Mexico administrative code, for which the department has notified persons subject to the applicable requirement that it is accepting specified electronic documents in lieu of paper, shall be submitted electronically, provided that the method of submittal complies with applicable federal and state standards for electronic submissions. The department may grant a waiver of this requirement on a case-by-case basis if requested by the regulated source.

B. Deadline extension due to computer system failure.

(1) If electronic submittal capability is in place, but the department's electronic document receiving system is temporarily unavailable, then the department may grant a deadline extension to the regulated source.

(2) If electronic submittal capability is in place, but the regulated source's computer system or its internet service provider is temporarily unavailable, then the source may request a deadline extension. The department may grant a deadline extension to the regulated source.

[20.2.1.117 NMAC - N, 02/27/15]

NEW MEXICO HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

This is an amendment to 8.139.410 NMAC, Sections 12 and 14, effective 2/13/2015.

8.139.410.12 EMPLOYMENT, TRAINING AND WORK REGISTRATION

A. Employment and training ~~(E&T)~~ E&T work registration: Compliance with work registration is a prerequisite to certification, unless exempt. Benefits may not be conditionally granted before registration of all mandatory household members, except when verification cannot be obtained prior to the expedited service time limit. Work registration exemptions must be verified before certification.

B. Compliance with E&T work requirements: As a condition of eligibility for participation in SNAP, every physically and mentally fit household member who is ~~[16]~~ 18 years of age or older and younger than age ~~[60]~~ 50 and who is determined mandatory, must register for the E&T program.

C. Non-compliance with E&T work requirements: Non-compliance with E&T work requirements is considered to exist when an individual:

(1) refuses, at the time of application and every 12 months thereafter, to register for employment in a manner prescribed by ISD; or

(2) fails or refuses to comply with the requirements under Title IV-A of the Social Security Act, or work requirements for individuals receiving UCB.

D. E&T work requirements:

(1) **General conditions for registration:**

(a) Unless exempt, every household member age ~~[16 through 59]~~ age 18 through 50 must register for employment. ~~[If a household member has his/her 16th birthday within a certification period, the work registration requirement must be fulfilled as part of the next scheduled recertification process, unless the member qualifies for an exemption.]~~

(b) If a household member has their 18th birthday within the established certification period, they must fulfill the E&T work program registration requirement as part of the next recertification.

(c)

An individual who does not qualify for an exemption must be registered for employment at initial certification or when added to the SNAP household, and at least every 12 months thereafter, as a condition of eligibility.

(e) (d)

Strikers whose households are eligible to apply for assistance, as defined in Subsection B of 8.139.400.11 NMAC, must register for work, unless covered by an exemption.

(f) (e)

Individuals exempt from registration may volunteer to participate in the E&T program.

(2) Individuals

exempt from registration: The following individuals are exempt from the work registration requirement:

(a) an

individual younger than [46] 18 years of age or an individual [60] 50 years of age or older;

(b)

[an individual age 16 or 17 who is not the head of household or is attending school or enrolled in an employment and training program at least half time, as defined by the school or employment and training program;

(c)

an individual who is physically or mentally unfit for employment; if physical or mental unfitness is claimed but not evident, verification is required; verification may consist of receipt of temporary or permanent disability benefits issued by government or private sources, or a statement from a physician or licensed or certified psychologist;

(d)

a natural parent, adoptive or step parent or individual residing in a SNAP household that includes a child younger than age 18, even if the child is not eligible for SNAP benefits;

(e)

a parent or other household member who is responsible for the care of [a dependent child under age six or] an incapacitated person; the incapacitated person need not be considered a member of the SNAP household or even reside with the household; the exemption will not apply if the dependent or incapacitated person resides with others who provide the care;

(f)

if the child has his/her sixth birthday during the certification period, the individual responsible for the care of the child is required to be registered as part of the next scheduled recertification, unless the individual qualifies for another exemption;

(g)

the exemption applies to the person who

actually provides the care;

(h)

the dependent child or incapacitated person need not be considered a member of the SNAP household or even reside with the household; the exemption will not apply if the dependent or incapacitated person resides with others who provide the care;

(i) an

individual subject to and complying with any work requirement under Title IV of the Social Security Act, including TANF work requirements;

(j)

an individual who receives unemployment compensation benefits and is subject to and complying with a federal or state unemployment compensation system; an individual who has applied for but who has not yet received UCB is exempt if required to register with the department of labor as part of the unemployment compensation application process;

(k) an

individual who is a regular participant in a state certified drug or alcohol treatment and rehabilitation program;

(l)

an individual who is employed or self-employed and working a minimum of 30 hours a week or receiving weekly earnings at least equal to the federal minimum wage multiplied by 30 hours;

(m)

migrant and seasonal farm workers who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days are exempt, although this does not prevent such individuals from seeking services from the E&T program;

(n)

workers in ACTION programs (such as VISTA) who average 30 or more hours of work per week are exempt, even though they earn less than minimum wage;

(o) a

student who is eligible to participate in the SNAP program, and who is enrolled at least half time in any recognized school, high school, training program, or institution of higher education; this exemption remains in effect during normal periods of class attendance, vacations, and recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer session);

(p)

a household member who has made application for SSI and SNAP benefits at the social security administration, and whose application for SNAP benefits has been received by HSD, and who is determined eligible for SNAP benefits, shall be exempt from work registration until an SSI determination is made; a household

member who is determined ineligible for SSI shall have the exemption from E&T work requirements evaluated at the time of the denial of SSI;

(q) a

pregnant woman; or

(r)

residing in a county with greater than 10 percent unemployment rate as defined by the department.

(3) Interim

changes in status:

(a)

Anyone losing exempt status because of changes subject to the reporting requirements in Paragraph (2) of Subsection A of 8.139.120.9 NMAC, will be required to register at the next recertification.

(b)

Anyone gaining or losing exempt status because of changes not subject to the reporting requirements in Paragraph (2) of Subsection A of 8.139.120.9 NMAC, will have his/her work status evaluated at the next recertification.

(4) Processing

changes: Mandatory work participants who move from one county to another retain their work registration status at their new location, unless they become exempt.

(5) Residing in a

non-work program county:

(a) The

appropriate work registration code of any individual living in a county which does not administer a work program through income support division, and who is not exempt from E&T work registration, will be entered into the individual's computer file. Those individuals will be dropped from referral to the E&T work program.

(b) Any

household member living in a non-work program area may volunteer to participate in the E&T work program. The nearest county administering a work program through ISD will accept the participant.

E. E&T work program:

The income support division (ISD) administers the work program for applicants and recipients of SNAP benefits who are mandatory and who voluntarily participate in the work program. The purpose of the work program is to assist household members participating in SNAP to gain skills that will increase an individual's ability to obtain and keep employment.

(1) Work

registrant responsibilities: Each household member who must be registered for work is required to register at the time of initial application and every 12 months thereafter:

(2) HSD

responsibilities: HSD is responsible for:

(a)

screening each household member to determine work registration status;

(b)

registering mandatory and voluntary participants;

(c)

providing information and explaining to each applicant the E&T work requirements, rights and responsibilities and consequences for failure or refusal to comply; such information must be provided at application, at recertification, and when a previously exempt or new household member must be registered;

(d)

disqualifying non-compliant individuals, and reinstating individuals who are subsequently determined to meet an exemption.

(3) Reporting

changes to the E&T work program: The following changes will be reported to the E&T work program:

(a)

work participants who become exempt from work registration;

(b)

work participants who are no longer certified for participation;

(c)

work participants who move from the project area; and

(d)

voluntary work participants who are deregistered.

(e)

In most cases, the changes listed above are reported by entering the appropriate information into the household's computer file. In some cases, a manual form is used to report new information to the work program.

(4) Work

program responsibilities: The E&T work program service provider is responsible for providing mandatory and voluntary participants referred to the E&T work program with the orientation, assessment, and development of a work participation agreement (WPA) and an individual responsibility plan (IRP).

(a)

~~**Scheduling and conducting assessment sessions:** the work program will inform each registrant or participant of:~~

(i)

~~mandatory and voluntary E&T work program requirements, including rights and responsibilities;~~

(ii)

~~services, benefits;~~

(b)

~~**placing a voluntary participant in a work activity:** a participant may be placed in any work activity deemed appropriate by the work program;~~

(c)

~~authorizing reimbursements up to the regulatory monthly limit for reasonable and necessary costs directly related to work program participation;~~

(d)

~~reporting voluntary work participants who wish to de-register.]~~

(5) Good cause

for noncompliance with E&T work requirements: The work program will report registrants or participants who fail or refuse to comply with work registration or who voluntarily quit a job, or reduce their work hours without good cause. The HSD has the primary responsibility to determine whether good cause exists for a failure or refusal to comply.

(a)

Good cause is determined by considering the facts and circumstances involved, including information submitted by the household member and employer.

(b)

Good cause includes circumstances beyond an individual's control, such as, but not limited to:

(i)

registrant or participant household member's illness;

(ii)

illness of another household member requiring the presence of the registered or participating member;

(iii)

household emergency;

(iv)

unavailability of transportation; or

(v)

lack of adequate child care for children who have reached age six but are younger than age 12.

F. Orientation:

Participants of E&T shall be provided an E&T work program orientation with their assessment, which explains the work program and its objectives to the participant. The orientation shall include the following information:

(1) the

participants rights and responsibilities;

(2) support

services;

(3) benefits of

participation in the E&T work program; and

(4) consequences

of non-compliance with the E&T work program requirements.

G. Assessment:

(1)

Requirements: No later than 15 calendar days after an application is approved, participants shall have an assessment done by the E&T work program service provider. The assessment is a necessary pre-cursor to the IRP, development of WPA, and is a crucial and necessary element in meeting

the E&T work program requirements.

(2) Elements:

(a)

Complete the assessment no later than 15 calendar days following approval of assistance for the participant in which the assessment is carried out; there are a variety of assessment tools and forms that may be used, provided that they address the participant's education, skills, prior work experience and employability.

(b)

The assessment may include referrals for counseling, if a barrier to employment exists related to alcohol or drug abuse or mental health.

(3)

Disqualification: ~~[No physically or mentally fit individual 16 years of age or older and under the age of 60 will be eligible to participate in SNAP if the individual fails or refuses without good cause to comply with work requirements.]~~ Failure to participate in or to complete the assessment may result in an E&T work program disqualification, unless good cause exists.

H. Individual

responsibility plan (IRP):

(1)

Requirements: Mandatory participants may complete an IRP with the assistance of the E&T work program service provider no later than 15 days from the date of approval of assistance.

(2)

General

purpose: The IRP is:

(a)

a personal planning tool, intended to assist the participant in long-term career planning, address barriers and secure and maintain employment;

(b)

intended to assist the participant in setting realistic long-term employment goals and to identify those steps which must be taken to achieve the stated goals; and

(c)

not intended to fulfill the limited purpose of identifying work activities which will meet E&T work program participation requirements; the participant is encouraged to use the IRP to assist in setting long-term employment goals.

(3) Elements:

The IRP shall include a specific achievable employment goal or goals and a plan for securing and maintaining employment.

I. Work participation

agreement (WPA):

(1)

General:

The purpose of the WPA is to assure the participant and the department that the work activities in which the participant is engaged meet the E&T work program requirements and the participant is referred to receive available support services.

(2) **Contents of the agreement:** At a minimum, the WPA shall:

(a) list the participant's approved work component;

(b) list the level of effort for each activity;

(c) list the support services to be provided by the department;

(d) list the reasonable accommodations that may be necessary to ensure meaningful engagement;

(e) be signed by the participant; and

(f) upon approval of the component and support services, signed by the E&T work program service provider.

(3) **Completion of a WPA:** The participant must complete WPA with the E&T work program service provider:

(a) no later than 30 calendar days from date of approval for benefits; or

(b) prior to requesting support services associated with such activity;

(c) no later than five days after the expiration of an existing WPA.

(4) **Disqualification:** ~~[No physically or mentally fit individual 16 years of age or older and under the age of 60 will be eligible to participate in SNAP if the individual fails or refuses without good cause to comply with work requirements.] Failure or refusal to develop, sign or meet the components outlined in the WPA may result in a disqualification, unless good cause exists.~~

J. E&T component:

(1) **Allowable components:** The E&T work program outlines allowable components annually through the supplemental nutrition assistance program employment and training state plan. The state plan is submitted and approved by the United States department of agriculture food and nutrition services. The annual state plan can be found on the human services department income support division website at the following link: [<http://www.hsd.state.nm.us/>] <http://www.hsd.state.nm.us/isd/isdplans.html>.

(2) **Individual or group job search with employer contacts:**

(a) Individual or group job search with employer contacts is the only allowable E&T component for mandatory and voluntary participants. Support services such as the transportation reimbursement

and child care assistance is to be provided for participants in this component only. This is a two part component which may include class room training and requires a minimum of 24 employer contacts over a two month period.

(b) The individual and group job search training is designed to impart basic job search techniques in order to secure employment; and job maintenance habits necessary for continued employment.

(i) All mandatory and voluntary participants are required to register as a "job seeker" through the New Mexico department of workforce solutions (DWS), "New Mexico workforce connection" online portal for job-matching services and resources. The mandatory and volunteer participants are required to submit a copy of the registration to the E&T work program service provider to verify completion of the registration within 30 days after the WPA is approved.

(ii) All mandatory and voluntary participants are required to complete the individual or group job search training with employer contacts no later than 60 days after the WPA is approved. The participant is required to have completed and submit verification of the completion of a minimum of 12 employer contacts within 30 days of the approved WPA. The participant is required to have completed and submit verification of 24 employer contacts within 60 days of the approved WPA.

(iii) **disqualification:** ~~[No physically or mentally fit individual 16 years of age or older and under the age of 60 will be eligible to participate in SNAP if the individual fails or refuses without good cause to comply with work requirements.] Failure to complete each element of the individual and group job search training with employer contacts component is subject to disqualification from SNAP, unless good cause exists.~~

(c) **Successful completion:** Participants who complete the individual or group job search and employer contact component within 90 days of the date of approval for newly certified and ongoing benefits are eligible for the transportation reimbursement, subject to available funding.

K. **E&T work program support services:**

(1) **Child care:** Mandatory and volunteer participant may be eligible for child care services to meet the requirements of the individual and group job search component.

(a) Mandatory and volunteer participants must have a completed WPA from the E&T work

program service provider to identify the number of hours child care will be needed to successfully complete the activity.

(b) E&T mandatory and volunteer participants may only receive child care services when they are placed in the approved E&T components.

(2) **Transportation reimbursements:** Mandatory and volunteer participants are eligible to receive a \$25.00 transportation reimbursement if they have successfully completed the E&T work program component as defined in Paragraph J of this section.

(3) Support services are subject to the availability of state and federal funding.

L. **Disqualification for noncompliance:** ~~[No physically or mentally fit individual ages 16 through 59 will be eligible to participate in SNAP if the individual fails or refuses, without good cause, to comply with work requirements in Subsection C of 8.139.410.12 NMAC.] A mandatory individual who fails or refuses, without good cause, to comply with the E&T work requirements will not be eligible to participate in SNAP.~~

(1) **Individual disqualification:** Any individual who fails or refuses to comply with the work registration, without good cause will be disqualified as follows:

(a) **first occurrence:** ~~[for three months or until compliance] until compliance or for three months, whichever is later;~~

(b) **second occurrence:** ~~[for six months or until compliance] until compliance or for six months, whichever is later;~~

(c) **third occurrence:** ~~[for one year or until compliance] until compliance or for one year, whichever is later.~~

(2) **Individual that is voluntarily participating:** Any individual that is voluntarily participating in the work program is not subject to disqualification for non-compliance with work requirements.

(3) **Treatment of income and resources:** All the income and resources of an individual disqualified for noncompliance with work requirements will be counted to determine the household's income and resource maximum levels, and benefit amount (see Subsection C of 8.139.520.10 NMAC). Any reported change that does not relate to the individual disqualification shall be processed after the appropriate determination in (a), (b) or (c) or (d) above is made. SNAP benefits shall be increased or decreased according to the change processing requirements at

8.139.120.10 NMAC.

~~[(4)] (4) **Notice of adverse action:** Within 10 days of determining that a participant has failed to meet an E&T requirement, the department or its designee shall issue notice of adverse action that the payment shall be reduced. The payment reduction shall take place with the first payment following expiration of the notice of adverse action.~~

~~(a) A participant who corrects the failure of compliance with E&T requirements during the notice of adverse action 13-day time period shall not have the occurrence imposed against the benefit group or payment amount. The occurrence shall not count as cumulative, since the reason for the sanction was corrected during the time period of the notice of adverse action and prior to a benefit reduction being imposed. A participant who has failed to meet work participation hours cannot correct the occurrence during the notice of adverse action time period.~~

~~(b) Failure to comply during the notice of adverse action 13-day time period shall cause the occurrence to become effective.]~~

~~[(5)] (4) **Determining the disqualification period:**~~

~~(a) **At application:** An individual who is a member in an applicant household, and who is in a prior disqualification period, will be denied SNAP benefits beginning with the month of application.~~

~~(b) **During participation:** An individual who has failed or refused to comply with work requirements while participating in SNAP will be ineligible to participate in SNAP beginning with the month following the month in which the notice of adverse action time limit expires.~~

~~(c) **[Simplified] Semiannual reporting households:** An individual who has failed or refused to comply with work requirements during a [simplified] semiannual reporting period, shall be ineligible to participate in SNAP beginning with the month following the month the notice of adverse action time limit expires. If the adverse action time limit will expire in the month after the notice would have been sent, the caseworker must wait until the first day of the following month to send the notice of adverse action.~~

~~[(6)] (5) **Disqualification in the last month of certification:** For all participating households, including households subject to semiannual reporting:~~

~~(a) If a notice of noncompliance is received in the last month of the certification period,~~

an adverse action notice will be sent to the household. The disqualification period begins the first month following the month the adverse action time limit expires, whether or not the household reapplies for SNAP benefits. If the household subsequently reapplies, either in the last month of the certification period or after the certification period has expired, the individual disqualification will continue for the duration of the appropriate penalty period.

~~(b) If the adverse action time limit expires in the last month of the household's certification period, the disqualification penalty will begin the following month, whether or not the household reapplies for SNAP benefits. If the household subsequently reapplies, either in the last month of the certification period or after the certification period has expired, the individual disqualification will continue for the duration of the appropriate penalty period.~~

~~[(7)] (6) **Lifting the disqualification:** [An individual who has been disqualified may resume participation in SNAP benefits if:] An individual who has been disqualified may resume participation during the disqualification period by becoming exempt from E&T work requirements listed in Paragraph (2) of Subsection D of 8.139.410.12 NMAC, if otherwise eligible.~~

~~(a) the participant becomes exempt from E&T work requirements listed in Paragraph (2) of Subsection D of 8.139.410.12 NMAC~~

~~(b) the participant corrects the failure of compliance with E&T requirements during the notice of adverse action 13-day time period; or~~

~~(c) the participant corrects the failure of compliance and serves no less than one month.~~

~~(i) The disqualification will continue until the participant complies or serves out the time frame for the occurrence level and corrects the reason for disqualification.~~

~~(ii) Participants disqualified due to not meeting the required hours, must demonstrate the hourly compliance prior to lifting disqualification.]~~

M. Head of household provisions:

(1) Designation:
The household may designate any adult parent of a child in the household as the head of household, if all adult household members making application agree to the selection. A household may designate the head of household each time the household is certified for participation in SNAP but

may not change the designation during a certification period, unless there is a change in household composition.

(2) Compliance with E&T work requirements: For purposes of determining compliance with the work requirements in Subsection C of 8.139.410.12 NMAC, the head of household will be considered as an individual household member. The head of household will be disqualified in accordance with the disqualification penalties in Paragraph (1) of Subsection H of 8.139.410.12 NMAC.

(a)
If the head of household leaves the household during a period of ineligibility, the disqualification follows the individual. The remaining household members, if otherwise eligible, continue to be eligible to participate in SNAP.

(b)
If the head of household becomes the head of another household, the individual disqualification continues to apply. The other household members continue to be eligible to participate in SNAP.
[02/01/95, 07/01/98; 8.139.410.12 NMAC - Rn, 8 NMAC 3.FSP.415, 05/15/2001; A, 10/15/2003; A, 01/01/2004; A, 04/01/2010; A, 06/01/2013; A, 10/01/2014; A, 2/13/2015]

8.139.410.14 ABLE BODIED ADULTS WITHOUT [DEPENDENTS] CHILDREN (ABAWDS): An applicant or recipient who is a mandatory work participant in the [SNAP] food stamp E&T program shall be considered for compliance with the 20-hour-a-week work requirement for ABAWDs. Unless determined exempt, any individual who is a mandatory ABAWD shall be required to comply with the 20-hour-a-week work requirement to maintain eligibility for [SNAP] food stamp benefits. The ABAWD 20-hour-a-week work requirement has been suspended based on the American Recovery and Reinvestment Act of 2009 effective April 1, 2009 through September 30, 2011.

A. Exemptions:
(1) Certain
individuals are exempt from the ABAWD 20-hour-a-week work:

(a) an individual determined to be exempt from work requirements of the [SNAP] food stamp E&T program set forth at Subsection D of this section;
(b) an individual under age 18 or age 50 or older;
(c) an individual medically certified as physically or mentally unfit for employment;
(d) a pregnant woman;
(e) an individual residing in a [SNAP] food stamp

household that includes at least one child under the age of 18, even if the child is not eligible for [SNAP] food stamp benefits;

(f) a

natural, adoptive or step-parent residing in a [SNAP] food stamp household that includes at least one child under the age of 18, even if the child is not eligible for [SNAP] food stamp benefits;

(g)

residing in a non-ABAWD county as documented by federal waiver or suspension of the 20-hour-a-week work requirement.

(2) Medical

reports: To determine an exemption from the 20-hour-a-week work requirement on the basis of pregnancy or physical or mental unfitness, the individual must provide a written report by a medical practitioner such as a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, a licensed or certified psychologist or social worker.

(a)

In the case of a pregnancy, the report must verify the pregnancy and identify the expected date of delivery.

(b)

A claim of physical or mental unfitness must be substantiated by a written report identifying the physical or mental condition and certifying that the person is unfit for employment.

B. Time limited eligibility

for ABAWDs: An ABAWD who is determined mandatory to comply with the 20-hour-a-week work requirement shall not be eligible to participate in the [SNAP] food stamp program as a member of any household if the individual received [SNAP] food stamp benefits but failed to comply with the 20-hour-a-week work requirement for three countable months in a 36-month period [~~until they subsequently meet the requirements to regain eligibility.~~]

(1) 36 month

period: The 36 month period is a fixed calendar month period beginning on [November 1, 2014. ~~The period ends on October 31, 2017.~~] December 1, 2002. ~~The period ends on November 30, 2005.~~

(2) Countable

months in the 36-month time limit: Within the fixed 36-month period, an ABAWD shall have a month counted toward the three-month time limit if the 20-hour-a-week work requirement is not met and the household received a full month's benefits.

(a) In

no event shall a month be counted toward the three-month time limit if the individual has not attained the age of 18.

(b) A

month that an ABAWD has used without fulfilling the work requirement in another state shall be counted toward the three-

month time limit as long as the other state verifies the month has been used as a non-work month.

C. Fulfilling the 20-hour-a-week work requirement:

(1) Working:

For purposes of determining the activities that count towards the 20-hour-a-week work requirement, the time spent working in exchange for money, or working in exchange for goods or services, or unpaid work, or any combination of these activities shall be considered as employment and credited toward the 20-hour-a-week work requirement.

(2) Work

activities: Allowable work activities that count towards the 20-hour-a-week work requirement include:

(a)

employment for at least 20 hours a week averaged monthly or 80 hours a month, but not unreported employment; in the case of self-employment income, gross monthly earnings, as determined under Paragraph (2) of Subsection E of 8.139.520.10 NMAC, are divided by the minimum wage to determine the number of hours that are countable in meeting the work requirement;

(b)

participation in and compliance with the requirements of a work program at least 20 hours a week;

(c)

any combination of employment and participation in a work program for at least 20 hours a week;

(d)

job search or job search training activities that are incorporated into the department's a work program or another state or local program that meets [SNAP] food stamp E&T requirements as long as the job search or job search training activities equal less than half the work requirement;

(e)

participation in and compliance with a workfare program.

(3) Work

program: Allowable activities in a work program include those performed under:

(a)

the Workforce Investment Act (Public Law 105-220);

(b) a

program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296);

(c)

the department's [SNAP] food stamp E&T program;

(d)

any other state or local program which is recognized by the department as meeting [SNAP] food stamp E&T program requirements.

D. Reporting and verifying work participation:

(1) It is the

responsibility of the individual subject to the work requirement to report:

(a)

whether or not that individual has worked or participated in a work program;

(b)

the number of hours spent in work or work program activities;

(c) how

the work requirement was fulfilled; and

(d)

when the individual's work hours fall below 20 hours a week, averaged monthly, or 80 hours a month.

(2) Verification

of the time spent working is mandatory in order to receive credit toward the work requirement. It is the responsibility of the individual subject to the work requirement to provide verification of participation in work activities by the fifth calendar day of each month following the month of participation in work activities.

E. Good cause for failure to meet the work requirement:

An ABAWD may establish good cause for failure to meet the 20-hour-a-week work requirement if the absence from work is temporary and the individual retains employment, or if participation in work activities resulted from a temporary absence due to circumstances beyond the individual's control. Good cause reasons include, but are not limited to, illness, illness of another household member requiring the presence of the ABAWD, a household emergency, or the unavailability of transportation. Good cause is established on an individual basis.

F. Regaining eligibility:

An individual who becomes ineligible due to failure to meet the work requirement for three months can regain eligibility by working or participating in an approved work program for at least 80 hours during any 30 consecutive day-period following the date of ineligibility.

(1) An

individual who regains eligibility is eligible on an ongoing basis provided he or she continues to meet the 20-hour-a-week work requirement.

(2)

There is no limit to the number of times an individual may regain eligibility during the 36-month period.

G. Failure to meet the work requirement after regaining eligibility: An individual who has regained eligibility and who subsequently fails to meet the 20-hour-a-week work requirement in any month left in the 36-month period shall be eligible to receive [SNAP] food stamp benefits for a three consecutive month period.

(1) The

three-month period begins with the month the work requirement was not met, provided the individual is otherwise eligible.

(2)

Upon expiration of the three months, the individual becomes ineligible for the remainder of the fixed 36-month period.

(3)

The individual may re-establish eligibility by either regaining eligibility or because a determination is made that the individual becomes exempt from the 20-hour-a-week work requirement.

H. Costs: Except for costs assumed by HSD pursuant to an approved [SNAP] food stamp E&T supportive services plan, HSD has no financial responsibility for any costs or liabilities incurred by persons electing to participate in a work program in order to meet the [SNAP] food stamp work requirement. [8.139.410.14 NMAC - N, 04/01/2010; A, 10/01/2014; A, 2/13/2015]

NEW MEXICO PUBLIC REGULATION COMMISSION

18.3.1 NMAC, Motor Carrier General Provisions - General Provisions, filed 12-10-2002 is being repealed and replaced by 18.3.1 NMAC, Motor Carrier General Provisions - General Provisions, effective 2-13-2015.

18.3.2 NMAC, Motor Carrier General Provisions - Operating Authorities, filed 12-16-2004 is being repealed and replaced by 18.3.2 NMAC, Motor Carrier General Provisions - Operating Authorities, effective 2-13-2015.

18.3.3 NMAC, Motor Carrier General Provisions - Financial Responsibilities, filed 12-10-2002, is repealed and replaced by 18.3.3 NMAC, Motor Carrier General Provisions - Financial Responsibilities, effective 2-13-2015.

18.3.4 NMAC, Motor Carrier General Provisions - Safety Requirements, filed 12-16-2004, is repealed and replaced by 18.3.4 NMAC, Motor Carrier General Provisions - Safety Requirements, effective 2-13-2015.

18.3.6 NMAC, Motor Carrier General Provisions - Tariffs, filed 12-10-2002, is repealed and replaced by 18.3.6 NMAC, Motor Carrier General Provisions - Tariffs, effective 2-13-2015.

18.3.7 NMAC, Motor Carrier General Provisions - Reports, Records and Accounts, filed 12-10-2002, is repealed and replaced by 18.3.7 NMAC, Motor Carrier

General Provisions - Reports, Records and Accounts, effective 2-13-2015.

18.3.8 NMAC, Motor Carrier General Provisions - Changes in Certificates and Permits, filed 12-16-2004, is repealed and replaced by 18.3.8 NMAC, Motor Carrier General Provisions - Changes in Certificates and Permits, effective 2-13-2015.

18.3.9 NMAC, Motor Carrier General Provisions - Leasing of Equipment, filed 12-10-2002 repealed and replaced by 18.3.9 NMAC, Motor Carrier General Provisions - Leasing of Equipment, effective 2-13-2015.

18.3.11 NMAC, Motor Carrier General Provisions - Household Good Carriers, (filed 12-10-2002) is being repealed and replaced by 18.3.11 NMAC, Motor Carrier General Provisions - Household Good Carriers, effective 2-13-2015.

18.3.12 NMAC, Motor Carrier General Provisions - Towing Services, filed 12-10-2002 is being repealed and replaced by 18.3.12 NMAC, Motor Carrier General Provisions - Towing Services, effective 2-13-2015.

18.3.14 NMAC, Motor Carrier General Provisions - Ambulance Services, filed 12-16-2004 is being repealed and replaced by 18.3.14 NMAC, Motor Carrier General Provisions - Ambulance Services, effective 2-13-2015.

NEW MEXICO PUBLIC REGULATION COMMISSION

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 - Rp, 18.3.1.1 NMAC, 2-13-15]

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, 18.3.1.2 NMAC, 2-13-15]

18.3.1.3 STATUTORY AUTHORITY: 8-8-4 and 65-2A-4 NMSA 1978. [18.3.1.3 NMAC - Rp, 18.3.1.3 NMAC, 2-13-15]

18.3.1.4 DURATION: Permanent.

[18.3.1.4 NMAC - Rp, 18.3.1.4 NMAC, 2-13-15]

18.3.1.5 EFFECTIVE DATE: February 13, 2015, unless a later date is cited at the end of a section.

[18.3.1.5 NMAC - Rp, 18.3.1.5 NMAC, 2-13-15]

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, 18.3.1.6 NMAC, 2-13-15]

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

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

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

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

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

E. 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;

F. limousine service means specialized passenger service providing the unscheduled compensated transportation 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;

G. MTD means the motor transportation division of the New Mexico department of public safety;

H. non-emergency medical transport service means a specialized passenger service providing the scheduled medically necessary transportation of passengers not requiring medical monitoring or treatment in a motor vehicle to or from a required medical or therapeutic appointment;

I. principal place of business means the mailing address of the motor carrier and the street address and

other physical location of a motor carrier's business office and records;

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

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

L. stationing point means a fixed physical location from which a motor carrier responds to a call for service or stores the vehicles it currently uses to provide service and does not include the point where a vehicle responding to a service call is temporarily located;

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

N. tour and sightseeing service means specialized passenger service providing scheduled or unscheduled guided compensated transportation of passengers in motor vehicles to scenic points or other points of interest at rates that apply to each individual passenger;

O. 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, 18.3.1.7 NMAC, 2-13-15]

18.3.1.8 COMPLIANCE WITH THE LAW:

A. A motor carrier shall 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, 18.3.1.8 NMAC, 2-13-15]

18.3.1.9 COMPLIANCE WITH TERMS OF OPERATING AUTHORITY AND TARIFFS:

A. A motor carrier shall 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, shall 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, 18.3.1.9 NMAC, 2-13-15]

18.3.1.10 STATIONING POINTS FOR CERTIFICATED PASSENGER SERVICES:

A. The commission shall specify stationing points on the certificate of each certificated passenger service.

B. A certificated passenger service may change a stationing point to a new stationing point in the same county by sending written notice to the commission. The commission shall then issue the motor carrier a new certificate reflecting the change in stationing points.

C. No change in stationing points will be approved that results in the certificated passenger service having a stationing point in a location not permitted under its operating authority. A certificated passenger service may apply to move a stationing point to a county in which it does not currently have a stationing point by applying for an amendment to its certificate. [18.3.1.10 NMAC - N, 2-13-15]

18.3.1.11 FILING CERTAIN DOCUMENTS BY FACSIMILE OR ELECTRONIC MAIL:

A. Persons may call the New Mexico public regulation commission transportation division at (505) 827- 4519 to obtain the facsimile number or electronic mail address for filing certain documents. The director will accept facsimile and electronic mail filings as well as hand-delivered or mailed filings of:

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

B. Persons filing documents by facsimile or electronic mail must also mail or deliver the original document to the director.

C. The document will be deemed filed on the date of receipt of the facsimile, the electronic mail, the hand-delivered, or mailed document, whichever occurs first. [18.3.1.11 NMAC - Rp, 18.3.1.11 NMAC, 2-13-15]

18.3.1.12 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 in person at the commission or on the commission's website at www.nmprc.state.nm.us.

C. Photocopies permitted. The commission will accept filings made on photocopies of director-prescribed forms, provided they are legible. [18.3.1.12 NMAC - Rp, 18.3.1.13 NMAC, 2-13-15]

18.3.1.13 INSPECTION:

A. General authority. Section 65-2A-4 NMSA 1978 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. Section 65-5-1 NMSA 1978 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. [18.3.1.13 NMAC - Rp, 18.3.1.14 NMAC, 2-13-15]

18.3.1.14 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 investigator credentials evidencing the person's authority and bearing the person's photograph.

[18.3.1.14 NMAC - Rp, 18.3.1.15 NMAC, 2-13-15]

18.3.1.15 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.

[18.3.1.15 NMAC - Rp, 18.3.1.16 NMAC, 2-13-15]

18.3.1.16 DECEPTIVE ADVERTISING PROHIBITED:

A. No motor carrier of persons or household goods, or towing service performing non-consensual 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 materially false or misleading in part or in whole. A statement shall be deemed materially false or misleading if it omits any material qualification imposed by these rules.

B. A motor carrier of persons or household goods, or towing service performing non-consensual tows, shall be subject to potential penalties 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 non-consensual tows, shall advertise and solicit in the legal or "doing business as" name(s) contained in its approved tariff, but may advertise the name of an officially registered agent or, for household goods movers, the national affiliation or principal for interstate carriage for which the carrier is currently an 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.

[18.3.1.16 NMAC - Rp, 18.3.1.17 NMAC, 2-13-15]

18.3.1.17 RULES OF PROCEDURE: In all matters before the commission involving motor carriers, the commission shall follow the Public Regulation Commission Rules of Procedure, 1.2.2 NMAC. A specific provision in these rules shall control over a

conflicting provision in 1.2.2 NMAC.

[18.3.1.17 NMAC - Rp, 18.3.1.18 NMAC, 2-13-15]

18.3.1.18 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.

[18.3.1.18 NMAC - Rp, 18.3.1.19 NMAC, 2-13-15]

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.

18.3.1 NMAC, Motor Carrier General Provisions - General Provisions, filed 12-10-02, repealed 2-13-15.

**NEW MEXICO
PUBLIC REGULATION
COMMISSION**

**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, 2-13-15]

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, 2-13-15]

18.3.2.3 STATUTORY

AUTHORITY: Sections 8-8-4, 65-2A-4, and 65-2A-19 NMSA 1978.

[18.3.2.3 NMAC - Rp, 18.3.2.3 NMAC, 2-13-15]

18.3.2.4 DURATION:

Permanent.

[18.3.2.4 NMAC - Rp, 18.3.2.4 NMAC, 2-13-15]

18.3.2.5 EFFECTIVE DATE:

February 13, 2015, unless a later date is cited at the end of a section.

[18.3.2.5 NMAC - Rp, 18.3.2.5 NMAC, 2-13-15]

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, 2-13-15]

18.3.2.7 DEFINITIONS: See 18.3.1.7 NMAC.

[18.3.2.7 NMAC - Rp, 18.3.2.7 NMAC, 2-13-15]

18.3.2.8 OPERATING

AUTHORITY REQUIRED: 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, Section 61-32-1 et seq. NMSA 1978 is not required to obtain a warrant for the transportation of cadavers.

B. A certificate or permit is required for:

- (1) municipal or general taxicab services;
- (2) scheduled or general shuttle services;
- (3) ambulance service;
- (4) household goods services; or
- (5) specialized passenger services; specialized passenger service includes tour and sightseeing services, non-emergency medical transportation services, and limousine services.

[18.3.2.8 NMAC - Rp, 18.3.2.8 NMAC, 2-13-15]

18.3.2.9 LIMITATIONS ON PASSENGER SERVICES:

A. General shuttle services. A general shuttle service:

- (1) may not provide full services, general taxicab services, specialized passenger services, or household goods services; and
- (2) may use chauffeur-driven luxury motor vehicles to provide general shuttle service.

B. Charter services. A charter service:

- (1) may not hold itself out as a full service or general service

motor carrier;

- (2) may not provide full service or general 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, general service, full 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; and

- (9) may only provide charter service to a group of persons (two or more).

C. Commuter service. A commuter service:

- (1) may not provide general services or full services; and

- (2) may not use chauffeur-driven luxury motor vehicles to provide commuter service.

D. Limousine service. A limousine service:

- (1) may not provide full services, general shuttle services, general taxicab services, or household goods services;

- (2) may not charge rates that apply to each individual passenger;

- (3) may not solicit business on the streets; and

- (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:

- (1) may not provide full services, general shuttle services, general taxicab services, or household goods services;

- (2) may only

transport passengers who do not require medical 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; and

- (3) may not transport passengers that require medical monitoring or medical intervention.

F. Scheduled shuttle service. A scheduled shuttle service:

- (1) may not provide ambulance service, municipal or general taxi service, specialized passenger service, or household goods service;

- (2) may solicit business at scheduled stops on its regular route or may prearrange to provide service; and

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

G. Municipal taxicab service. A municipal taxicab service:

- (1) may not provide ambulance service, scheduled or general shuttle service, specialized passenger service, or household goods 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;

- (7) must respond to 95% of all pre-arranged calls for service within eight minutes of the time agreed upon for the taxicab to be at the customer's location;

- (8) must respond to 85% of all calls for immediate service within 30 minutes of receiving the request for service; and

- (9) except for hailed or for pre-arranged service (hereby defined as "any call requesting service made 30 minutes or longer before service is required" may only respond to calls for service that are dispatched by the taxicab service; in determining if the requirements of Paragraphs (7) and (8) above are met, the commission may examine a municipal taxicab service's response times based on six-month rolling average.

H. General taxicab**service.** A general taxicab service:

- (1) may not provide ambulance service, scheduled or general shuttle service, specialized passenger service, or household goods 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; and
- (7) except for hailed or pre-arranged service (defined as "any call requesting service made 30 minutes or longer before service is required), may only respond to calls for service that are dispatched by the taxicab service.

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

- (1) may not provide full services, general shuttle services, general taxicab services, or household goods services; and
- (2) may use chauffeur-driven luxury motor vehicles to provide tour and sightseeing service. [18.3.2.9 NMAC - Rp, 18.3.2.9 NMAC, 2-13-15]

18.3.2.10 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.** if the applicant is a sole proprietor or a partnership, the applicant's social security number for purposes of verifying parental responsibility act compliance;
- C.** the applicant's doing business as (d/b/a) name, if applicable;
- D.** the applicant's principal place of business within the state of New Mexico and mailing address;
- E.** the applicant's business telephone number;
- F.** the applicant's electronic mail address, if applicable;
- G.** the applicant's combined reporting system (CRS) number obtained from the New Mexico taxation and revenue department;
- H.** if the applicant is a corporation, evidence that the applicant is

authorized by the office of the secretary of state to do business in New Mexico and that it is in good corporate standing in New Mexico;

I. 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;

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

K. if the applicant is a towing service providing non-consensual tows, a proposed tariff meeting the requirements of 18.3.6 NMAC and Sections 65-2A-20 and 21 NMSA 1978;

L. an appointment of an agent for service of process;

M. 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;

N. for each piece of equipment, an annual inspection form completed by a qualified inspector within the preceding 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;

O. a list of drivers and drivers license information for each driver including state of issuance, license number, and class of license;

P. 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;

Q. the applicant's U.S. DOT safety rating, if it has one;

R. proof of public liability insurance in accordance with 18.3.3 NMAC, Financial Responsibility;

S. if the applicant is a towing service, proof of garage keepers and on the hook liability insurance as required by 18.3.3.11 NMAC;

T. 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);

U. 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;

V. a copy of the applicant's written preventive maintenance program for its motor vehicles as required by 18.3.4.11 NMAC;

W. a contact person and telephone number for the commission to call in the event of a complaint;

X. the notarized oath of the applicant attesting that all statements in the application are true and correct;

Y. the application fee required by Section 65-2A-36 NMSA 1978; and

Z. a statement disclosing any other operating authority(ies) owned or operated by the applicant including any partial interest in any other operating authority(ies). [18.3.2.10 NMAC - Rp, 18.3.2.11 NMAC, 2-13-15]

18.3.2.11 REVIEW AND APPROVAL OF APPLICATIONS FOR WARRANTS:**A. Filing requirements.****(1) Application**

required. Applications for a warrant must be typed or completed in ink on forms prescribed by the director.

(2) Number

of copies. Applicants for a warrant must file an original application form and every required document as provided in 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 the application form and each document.

(3) Filing fee.

Applicants shall submit the appropriate application fee with the application in a form of payment approved by the New Mexico public regulation commission.

B. Review by the

director. Within seven days of receipt of an application, the director will review the application to determine whether it is complete. If the director determines that the application is incomplete, he shall promptly return the application to the applicant along with an initial letter outlining the deficiencies in the application.

C. Complete applications.**(1) If the**

application contains all of the information and documents required by 18.3.2.10 NMAC and is in compliance with all other statutory requirements and these rules, the director shall promptly approve the application and issue the warrant.

(2) The director

will issue a warrant 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 will be issued only in a "d/b/a" name.

D. Docketing of warrants.

The transportation division shall issue a docket number upon receipt of the complete application, and all required documents. The applicant shall file the complete application and the filing fee with the transportation division of the commission. Issuance of the warrant closes the docket. [18.3.2.11 NMAC - Rp, 18.3.2.13 NMAC 2-13-15]

18.3.2.12 TERMS AND CONDITIONS OF WARRANTS:

A. Proof of operating authority. A copy of the warrant 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. [18.3.2.12 NMAC - Rp, 18.3.2.14 NMAC, 2-13-15]

18.3.2.13 CONTENTS OF APPLICATIONS FOR AN ORIGINAL CERTIFICATE OR PERMIT, FOR AMENDMENT OF A CERTIFICATE OR PERMIT, FOR LEASE OF A CERTIFICATE OR PERMIT, AND FOR VOLUNTARY TRANSFER OF A CERTIFICATE OR PERMIT:

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

- (1) the applicant's name;
- (2) if the applicant is a sole proprietor or a partnership, the applicant's social security number for purposes of verifying parental responsibility act compliance;
- (3) the applicant's d/b/a name, if applicable;
- (4) the applicant's principal place of business within the state of New Mexico and mailing address;
- (5) the applicant's vehicle stationing point(s);
- (6) the applicant's electronic mail address, if applicable;
- (7) the applicant's CRS obtained from the New Mexico taxation and revenue department;
- (8) if the applicant is a corporation:
 - (a) evidence that the applicant is authorized by the office of the secretary of state 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 10% or more of the voting stock of the corporation;

(9) 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;

(10) appointment of an agent for service of process;

(11) affidavits or other evidence upon which the applicant intends to rely to show that the applicant is fit and able;

(12) a statement of the type of service the applicant intends to operate and a description of the territory it proposes to serve;

(13) the application fee required by Section 65-2A-36 NMSA 1978;

(14) a proposed tariff meeting the requirements of 18.3.6 NMAC, Tariffs and Sections 65-2A-20 and 21 NMSA 1978; and

(15) the notarized oath of the applicant attesting that all statements in the application are true and correct.

B. For all original certificates and permits. An applicant for an original certificate or permit, except for an applicant for an original permit that already possesses a valid certificate or permit for the same type of service, shall file with the commission the following information and documents:

- (1) the applicant's principal place of business;
- (2) the applicant's business telephone number;
- (3) 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;
- (4) for each piece of equipment, an annual inspection form completed by a qualified inspector within the preceding 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;
- (5) a list of drivers and drivers license information for each driver including state of issuance, license number and class of license;
- (6) 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;

(7) the applicant's U.S. department of transportation (DOT) safety rating, if it has one;

(8) proof of public liability insurance in accordance with 18.3.3 NMAC, Financial Responsibility, and the insurance filing fee;

(9) a copy of either a certificate of workers' compensation insurance or a certificate of exemption from the workers' compensation administration;

(10) 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; and

(11) a copy of the applicant's written preventive maintenance program for its motor vehicles as required by 18.3.4.12 NMAC.

C. For all amendments of certificates and permits. An applicant for an amendment to a certificate or permit shall file an application containing the information required in Subsection A of this section.

D. For all leases of certificates and permits. An applicant for a lease of a certificate or permit shall file an application containing the information required in Subsection A of this section with the exception of Paragraph (13) of Subsection A of 18.3.2.15 NMAC. The application shall also contain the following additional information:

- (1) copies of its current certificate or permit and all endorsements;
- (2) a complete description of all operating equipment to be leased;
- (3) a statement 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
- (4) a copy of the proposed lease, containing provisions:
 - (a) stating that the proposed lease may not go into effect until approved by the commission;
 - (b) stating which party to the lease shall be responsible for complying with the qualifying provisions in 18.3.2.13 NMAC; and
 - (c) specifying the term of the lease.

E. For all voluntary transfers of certificates and permits. An applicant for transfer of a certificate or permit shall file an application containing

the information required in Subsection A of this section. The application shall also contain the following additional information:

- (1) copies of its current certificate and all endorsements or permit;
- (2) 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;
- (3) a complete description of all operating equipment to be transferred;
- (4) 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
- (5) if all taxes have been paid in full, 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.

F. Additional requirements for permits. An applicant for a permit shall also file with the commission a copy of each contract under which the applicant intends to operate.

G. 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;
- (2) identify fixed stationing points for all ambulances used within a service's territory or patient catchment area;
- (3) submit affidavits or other evidence upon which the applicant intends to rely to show 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
- (4) submit affidavits or other evidence of the effect that issuance of the certificate would have on existing ambulance service in the territory sought in the application.

H. Additional requirements for scheduled shuttle service. An applicant for a certificate or a permit as a scheduled shuttle service

shall also submit a daily time schedule as required by Section 65-2A-3(BBB) NMSA 1978.

I. Additional requirements for municipal taxicab service. An applicant for a certificate or a permit as a municipal taxicab service shall also:

- (1) specify the portion of its applied for service territory in which it will provide municipal taxicab service and the portion of its applied for service territory in which part it will provide general service; and
 - (2) submit a description of how calls for service are centrally dispatched, including the location of the dispatcher(s).
- [18.3.2.13 NMAC - Rp, 18.3.2.15 NMAC, 2-13-15]

18.3.2.14 REVIEW OF APPLICATIONS FOR CERTIFICATES, 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 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 these rules, and is in compliance with all other statutory requirements and these rules, the director shall certify in writing that the application satisfies the 60 day completeness requirement of Subsection E of Section 65-2A-36 NMSA 1978 and notify the applicant that the application is complete. The director's determination of completeness shall not constitute approval of the application. The transportation division shall issue a docket number upon receipt of the complete application, and all required documents. The applicant shall file the complete application and the filing fee with the transportation division of the commission. If the director determines that the application is incomplete, the director shall promptly return the application to the applicant along with an initial letter outlining the deficiencies in the application. Any comments by the director shall not constitute approval by the commission as to the reasonableness or lawfulness of any application.

[18.3.2.14 NMAC - Rp, 18.3.2.16 NMAC, 2-13-15]

18.3.2.15 NOTICE:

A. If the director certifies that an application for a certificate or permit or for a change in a certificate or permit is complete, the director shall prepare a notice of application within five business days and

post it on the commission's website. Also within five business days, the director shall send an electronic version of the notice via e-mail to all motor carriers, public officials or agencies, or other persons or entities who have previously supplied electronic mail addresses to the commission for the purpose of receiving such notices. 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. The transportation division shall maintain a list of electronic mail addresses of motor carriers, agencies and other persons interested in receiving notices of applications for certificates or permits, proposed rulemakings, or other orders of the commission of general application. The director shall add or delete an electronic mail address from the list upon request.

C. Special notice procedure for certain permit and tariff applications. The director shall promptly, before the pre-filing review is complete, open a docket and post notice on the commission's website of:

- (1) an application for a permit for contractual carriage with departments, divisions or agencies of the state of New Mexico or with medicaid managed care program (SALUD) providers or facilities for non-emergency medical carriage;
 - (2) an application for a tariff change made by any tariffed motor carrier which does not propose to increase an existing rate; and
 - (3) an application for a tariff change made by a general service motor carrier which proposes an increase to an existing rate.
- [18.3.2.15 NMAC - Rp, 18.3.2.17 NMAC, 2-13-15]

18.3.2.16 CONTESTED APPLICATIONS:

A. If a full service carrier files a protest in an application for an original certificate for passenger service or for a permit for ambulance service or for passenger service pursuant to a public-charge contract or for amendment, lease or transfer of such a certificate or permit, or the director requests a hearing, the commission shall appoint a hearing examiner. The protest shall state how the service territory in the application overlaps with the full service carrier's territory and, except for ambulance service carriers, shall state how the grant of the application will, or presents a reasonable potential to, impair, diminish or otherwise adversely affect its existing provision of full-service passenger service to the public within its full-service

territory. If a protester fails to submit the fee required by Section 65-2A-36 NMSA 1978 at the time the protestor files the protest, the protest will be deemed denied. If the protestor does not file the fee within the notice period, the protest is deemed denied.

B. The hearing examiner shall, within 30 days of appointment, issue a notice of hearing setting a hearing on the merits to be held within 90 days from the date of appointment. Also within 30 days of appointment, the hearing examiner shall make a determination as to whether any filed protests comply with Subsection (A) of 18.3.2.16 NMAC. The hearing examiner may for good cause extend the time within which a hearing on the merits must be held.

C. A person filing an objection will not be granted intervenor status unless the person also files a motion to intervene that complies with 1.2.2.23 NMAC. The hearing examiner shall consider a motion to intervene in accordance with 1.2.2.23 NMAC with the exception that, if the motion to intervene is not acted upon by the date the hearing examiner issues a notice of hearing, the motion to intervene is deemed denied.

D. If the commission or hearing examiner denies all protests and 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.

E. The hearing examiner shall issue a recommended decision within 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.

[18.3.2.16 NMAC - Rp, 18.3.2.18 NMAC, 2-13-15]

18.3.2.17 UNCONTESTED APPLICATIONS: If the director does not request a hearing, and no person files a motion to intervene or protest 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 business days of the end of the notice period, a recommendation to approve the application. [18.3.2.17 NMAC - Rp, 18.3.2.19 NMAC, 2-13-15]

18.3.2.18 CONDITIONAL APPROVAL AND ISSUANCE OF A CERTIFICATE OR PERMIT:

A. The commission

may condition approval of a certificate or permit upon any unmet provisions, terms, conditions, or limitations set forth by the commission in its final order. If the applicant fails to timely comply with all qualifying provisions, the commission may dismiss the case and close the docket.

B. An applicant for any full service operating authority may omit the information required by Subsection (B) of 18.3.2.13 NMAC in its application. If the commission finds that the applicant for a certificate as a motor carrier of persons has met the statutory requirements in Section 65-2A-8 NMSA 1978 or that the applicant for a certificate as a motor carrier of household goods has met the statutory requirements in Section 65-2A-9 NMSA 1978 or that the applicant for a permit has met the statutory requirements in Section 65-2A-10 NMSA 1978 the commission shall issue an order conditionally approving the application. Then, unless the commission prescribes a different period, the applicant must, within 90 days from the date of the order, submit all information required by Subsection (B) of 18.3.2.13 NMAC.

C. Upon determining that the applicant has complied with all qualifying provisions, the director will promptly sign and issue a certificate or permit. If the final order does not contain qualifying provisions, the director will promptly sign and issue a certificate or permit. [18.3.2.18 NMAC - Rp, 18.3.2.20 NMAC, 2-13-15]

18.3.2.19 POSTING OF

CONSUMER NOTICE: Every passenger service 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 New Mexico public regulation commission (NMPRC) Operating Authority Number. (insert operating authority number), 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, Consumer Relations Division, P.O. Box 1269, Santa Fe, New Mexico 87504-1269, 1-888-427-5772, or via email, crd.complaints@state.nm.us." [18.3.2.19 NMAC - Rp, 18.3.2.23 NMAC, 2-13-15]

18.3.2.20 REQUIREMENTS APPLICABLE TO ALL PASSENGER

SERVICE CARRIERS:

A. Safe and adequate service, equipment, and facilities. All passenger services must provide safe and adequate service, equipment, and facilities for the provision of transportation services.

B. Condition of vehicles. A passenger service carrier shall use motor vehicles that are safe, dependable, clean, and suitable for the service rendered. A passenger service shall maintain each motor vehicle in good mechanical and operating condition. No passenger service 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 passenger service carrier 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 passenger service carrier 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. [18.3.2.20 NMAC - Rp, 18.3.2.24 NMAC, 2-13-15]

18.3.2.21 REQUIREMENTS APPLICABLE TO ALL PASSENGER SERVICE CARRIERS EXCEPT AMBULANCE SERVICES:

A. Rates to be posted in vehicles. A taxicab service and shuttle service 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 passenger service carrier shall ensure that each motor vehicle it uses that is capable of transporting 15 or fewer persons is equipped with a separate seat belt assembly for each passenger.

C. Child restraints. A passenger service carrier except commuter services shall ensure that each motor vehicle it uses that is capable of transporting 15 or fewer persons complies with all federal and state requirements regarding child restraint systems.

[18.3.2.21 NMAC - Rp, 18.3.2.25 NMAC, 2-13-15]

18.3.2.22 ADDITIONAL REQUIREMENT FOR TAXICAB SERVICES: Unless expressly requested otherwise, a taxicab services shall transport passengers over the shortest available route. [18.3.2.22 NMAC - Rp, 18.3.2.26 NMAC, 2-13-15]

18.3.2.23 ADDITIONAL REQUIREMENTS FOR SCHEDULED SHUTTLE SERVICES:

A. 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.

B. 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:

(1) if the particular vehicle has no loaded passengers at the particular time and has no other pickup points on its route, the scheduled shuttle service may delay its departure for any reasonable period of time for late arriving reserved passengers;

(2) 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 15 minutes past its scheduled departure time.

C. Interruption of service. Each scheduled shuttle service shall promptly report in writing to the commission 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. [18.3.2.23 NMAC - Rp, 18.3.2.27 NMAC, 2-13-15]

18.3.2.24 ADDITIONAL REQUIREMENTS FOR CERTIFICATED SERVICE CARRIERS AND PERMITTED SERVICE CARRIERS:

Each certificated service carrier and permitted service carrier shall obtain a nationwide criminal background report for all employed and contract drivers and for all other persons employed by household goods service carriers who enter private dwellings in the course of household goods service and maintain all such reports in the employee's personnel file. [18.3.2.24 NMAC - N, 2-13-15]

18.3.2.25 TEMPORARY AUTHORITY:

A. Grant discretionary. Pursuant to Section 65-2A-11 NMSA 1978

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 Section 65-2A-11 NMSA 1978. 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, lease or transfer of all or part 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 18.3.2.13 NMAC; and

(2) 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:

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

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

(c) 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 an affidavit; and

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

C. Public safety, a governmental program, or a specific public event. The commission deems that ambulance service directly involves public safety and that nonemergency medical transportation service directly involves a governmental program. The commission shall not grant temporary authority for any transportation service except ambulance and nonemergency medical transportation unless the applicant files at least five

affidavits from non-party persons stating the specific governmental program, specific public event or specific threat to public safety that the application addresses and stating how granting the application for temporary authority will address the public's immediate need for the service.

D. Procedure and notice.

During the notice period, in ruling on an application for temporary authority, the commission shall not consider any objections, protests or other filings made by any protestor or third party. The notice period for any application for a temporary authority shall last until the commission appoints a hearing examiner or 20 days, whichever is longer. If the commission does not rule on an application for temporary authority before the expiration of the notice period, the application shall be deemed denied. After the expiration of the notice period, and provided a hearing has not already been held, the applicant or any protestor may request a hearing on either the grant or denial of the application for temporary authority by complying with all of the following procedures.

(1) The request for hearing must be filed within five days of the expiration of the notice period.

(2) If the commission granted a temporary authority during the notice period, staff or any other party requesting a hearing on the grant of temporary authority must include written direct testimony specifically addressing the accuracy or veracity of information contained in the applicant's application for temporary authority, application for an original certificate or permit, application for lease or transfer of all or part of a certificate or permit or application for amendment of a certificate or permit. Within five days of receipt of the written direct testimony, staff or any other party supporting the grant of temporary authority may file written rebuttal testimony addressing only matters raised in the written direct testimony.

(3) If the commission denied the application for temporary authority during the notice period, staff or any party requesting a hearing on the denial of temporary authority must include written direct testimony containing information addressing any of the Section 65-2A-11 NMSA 1978 criteria for granting a temporary authority. Within five days of receipt of the written direct testimony, staff or any other party supporting the denial of temporary authority may file written rebuttal testimony addressing only matters raised in the written direct testimony.

(4) Provided a hearing on the merits of the application for temporary authority has been held, once the commission has rendered its decision,

no further legal proceedings involving the temporary authority other than extensions of the temporary authority will be considered by the commission.

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.

[18.3.2.25 NMAC - Rp, 18.3.2.29 NMAC, 2-13-15]

18.3.2.26 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 motor transportation division (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 the operating authority, or impose a fine, on a full service carrier that does not meet the standards for reasonably continuous and adequate service contained in these rules and in the Motor Carrier Act. [18.3.2.26 NMAC - Rp, 18.3.2.30 NMAC, 2-13-15]

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, Motor Carrier General Provisions - Operating Authorities (filed 12-16-04); repealed 2-13-15.

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 12-16-04) was replaced by 18.3.2 NMAC, Operating Authorities, effective 2-13-15.

NEW MEXICO PUBLIC REGULATION COMMISSION

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 - Rp, 18.3.3.1 NMAC,
2-13-15]

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 - Rp, 18.3.3.2 NMAC,
2-13-15]

**18.3.3.3 STATUTORY
AUTHORITY:** Sections 8-8-4, 65-2A-3.S,
65-2A-4, and 65-2A-18 NMSA 1978.
[18.3.3.3 NMAC - Rp, 18.3.3.3 NMAC,
2-13-15]

18.3.3.4 DURATION:
Permanent.
[18.3.3.41 NMAC - Rp, 18.3.3.4 NMAC,
2-13-15]

18.3.3.5 EFFECTIVE DATE:
February 13, 2015, unless a later date is
cited at the end of a section.
[18.3.3.5 NMAC - Rp, 18.3.3.5 NMAC,
2-13-15]

18.3.3.6 OBJECTIVE: The
purpose of this rule is to implement Section
65-2A-18 NMSA 1978.
[18.3.3.6 NMAC - Rp, 18.3.3.6 NMAC,
2-13-15]

18.3.3.7 DEFINITIONS: See
18.3.1.7 NMAC.
[18.3.3.7 NMAC - Rp, 18.3.3.7 NMAC,
2-13-15]

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

(1) 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
(2) a surety bond
issued by a company authorized to do surety
business in New Mexico; or
(3) a certified
statement from the office of superintendent
of insurance that the motor carrier has met
all requirements to be self-insured.

**B. 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.
[18.3.3.8 NMAC - Rp, 18.3.3.8 NMAC,
2-13-15]

**18.3.3.9 INSURANCE
FILINGS:**
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. In lieu
of mailing, insurance companies may also
electronically transmit uniform filing forms
E, H, and K as allowed by the commission.
The commission will make available, on
its website, information directing insurance
companies how to file forms E, H, and K
(electronically).
[18.3.3.9 NMAC - Rp, 18.3.3.9 NMAC,
2-13-15]

**18.3.3.10 MINIMUM LIMITS
OF PUBLIC LIABILITY INSURANCE:**
A. Passenger services
providing service in vehicles with a seating
capacity of sixteen (16) passengers or
more must maintain the minimum levels of

financial responsibility required by 49 CFR
387.33.

B. Passenger services
providing service in vehicles with a seating
capacity of fifteen (15) passengers or less,
excluding taxicab services having a seating
capacity of less than seven (7) passengers,
must maintain the minimum levels of
financial responsibility required by 49 CFR
387.33.

C. Taxicab services having
a seating capacity of less than seven (7)
passengers 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. Towing services,
repossession services, household goods
movers, and motor carriers of property
with a gross vehicle weight rating of
10,001 pounds or more must maintain the
minimum levels of financial responsibility
required by 49 CFR 387.9 The minimum
level of financial responsibility covers
environmental restoration, as required 49
CFR 387.301(a)(1).

E. Towing services,
repossession services, household goods
movers, and motor carriers of property with
a gross vehicle weight rating of 10,000
pounds or less 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 regardless of gross
vehicle weight.
[18.3.3.10 NMAC - Rp, 18.3.3.10 NMAC,
2-13-15]

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. 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 - Rp, 18.3.3.11 NMAC,
2-13-15]

**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 office of 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 - Rp, 18.3.3.12 NMAC, 2-13-15]

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. [18.3.3.13 NMAC - Rp, 18.3.3.13 NMAC, 2-13-15]

18.3.3.14 AUTOMATIC SUSPENSION OF OPERATING

AUTHORITY: The commission shall, in accordance with 18.3.2.26 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 - Rp, 18.3.3.14 NMAC, 2-13-15]

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.

18.3.3 NMAC, Motor Carrier General Provisions - Financial Responsibilities, filed 12-10-2002, repealed 2-13-2015

NEW MEXICO PUBLIC REGULATION COMMISSION

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 - Rp, 18.3.4.1 NMAC,
2-13-15]

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.

D. The Commission may

waive any specific requirement of this part if it conflicts with a rule or requirement of another state agency, governmental entity, or law enforcement entity or if such an agency requests in writing that the rule be waived.

[18.3.4.2 NMAC - Rp, 18.3.4.2 NMAC, 2-13-15]

18.3.4.3 STATUTORY

AUTHORITY: Sections 8-8-4, 65-2A-4, 65-2A-19, and 65-6-4 NMSA 1978.

[18.3.4.3 NMAC - Rp, 18.3.4.3 NMAC, 2-13-15]

18.3.4.4 DURATION:

Permanent.

[18.3.4.4 NMAC - Rp, 18.3.4.4 NMAC, 2-13-15]

18.3.4.5 EFFECTIVE DATE:

February 13, 2015, unless a later date is cited at the end of a section.

[18.3.4.5 NMAC - Rp, 18.3.4.5 NMAC, 2-13-15]

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 and commuter services subject to the jurisdiction of the commission.

[18.3.4.6 NMAC - Rp, 18.3.4.6 NMAC, 2-13-15]

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 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 or a commuter service;

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, 2-13-15]

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 trucking association, listed in the Albuquerque telephone directory.

[18.3.4.8 NMAC - Rp, 18.3.4.8 NMAC, 2-13-15]

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 Section 65-2A-3 NMSA 1978, 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 - Rp, 18.3.4.9 NMAC, 2-13-15]

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.

B. Hours of service of all drivers except drivers of ambulance services. 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.”

C. Hours of service for drivers of ambulance services. Ambulance services shall adopt and enforce a policy governing hours of service for their drivers.
[18.3.4.10 NMAC - Rp, 18.3.4.10 NMAC, 2-13-15]

18.3.4.11 REQUIREMENTS APPLICABLE ONLY TO CDL DRIVERS:

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

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 - Rp, 18.3.4.11 NMAC, 2-13-15]

18.3.4.12 REQUIREMENTS APPLICABLE ONLY TO NON-CDL DRIVERS:

A. Operators’ and chauffeurs’ licenses. This rule adopts by reference chapter 66, article 5, part 1 NMSA 1978.

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 medical examiner (as defined in 49 CFR Section 390.5) performing the medical examination 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; 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;

(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 chapter 66, article 3, parts 9 and 10 NMSA 1978.

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 – Rp, 18.3.4.12 NMAC, 2-13-15]

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 and permanently affixed to the right and left doors, or sides of the power unit, of each motor vehicle operated in New Mexico, except for motor vehicles leased or rented for authorized operations.

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, 18.3.4.13 NMAC, 2-13-15]

18.3.4.14 MINIMUM

EQUIPMENT STANDARDS: A motor carrier shall only use equipment that has been produced and constructed by a manufacturer of such equipment that regularly produces such equipment of guaranteed quality. The director may approve the use of non-guaranteed equipment if the motor carrier 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 equipment is appropriate for the purpose for which it will be used. The motor carrier shall bear all costs of testing and certification.
 [18.3.4.14 NMAC – N, 2-13-15]

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.
 18.3.4 NMAC, Operating Requirements (filed 12-10-2002) repealed 1-1-05.
 18.3.4 NMAC, Operating Requirements (filed 12-16-2004) repealed 2-13-2015.

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.
 18.3.4 NMAC, Safety Requirements (filed 12-16-2004) was replaced by 18.3.4 NMAC, Safety Requirements, effective 2-13-15.

NEW MEXICO PUBLIC REGULATION COMMISSION

TITLE 18 TRANSPORTATION AND HIGHWAYS 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 - Rp, 18.3.6.1 NMAC, 2-13-15]

18.3.6.2 SCOPE: This rule applies to tariffed service carriers.
 [18.3.6.2 NMAC - Rp, 18.3.6.2 NMAC, 2-13-15]

18.3.6.3 STATUTORY AUTHORITY: Sections 8-8-4 and 65-2A-4 NMSA 1978.
 [18.3.6.3 NMAC - Rp, 18.3.6.3 NMAC, 2-13-15]

18.3.6.4 DURATION:
 Permanent.
 [18.3.6.4 NMAC - Rp, 18.3.6.4 NMAC, 2-13-15]

18.3.6.5 EFFECTIVE DATE:
 February 13, 2015, unless a later date is cited at the end of a section.
 [18.3.6.5 NMAC - Rp, 18.3.6.5 NMAC, 2-13-15]

18.3.6.6 OBJECTIVE: The purpose of this rule is to implement Sections 65-2A-20 and 65-2A-21 NMSA 1978.
 [18.3.6.6 NMAC - Rp, 18.3.6.6 NMAC, 2-13-15]

18.3.6.7 DEFINITIONS: See 18.3.1.7 NMAC.
 [18.3.6.7 NMAC - Rp, 18.3.6.71 NMAC, 2-13-15]

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, 18.3.6.8 NMAC, 2-13-15]

18.3.6.9 CONTENTS OF TARIFFS:

A. All proposed tariffs shall be in the form approved by the commission and shall include for scheduled shuttle services specific presentment times

at each terminal location.

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, 18.3.6.9 NMAC, 2-13-15]

18.3.6.10 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.

B. A motor carrier other than a taxicab service shall compute actual distances using odometer readings, Global Positioning System (GPS) based data, or the official road map of New Mexico issued by the New Mexico department of transportation.

C. 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.
 [18.3.6.10 NMAC - Rp, 18.3.6.11 NMAC, 2-13-15]

18.3.6.11 TARIFFS TO BE AVAILABLE: A motor carrier subject to this rule shall maintain at its principal place of business and at each of its terminal locations, 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.
 [18.3.6.11 NMAC - Rp, 18.3.6.12 NMAC, 2-13-15]

18.3.6.12 CHANGES IN TARIFFS:

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 amendment of tariff rates that increases any tariff rate to a level greater than that previously approved by the commission for a full-service carrier or a towing service providing non-consensual tows 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 amendment of any tariff rate to a level greater than that previously approved by the commission for a household goods service carrier shall include:

(a) a proposed tariff including the proposed changes in rates; and

(b) a side-by-side comparison of the household goods service carrier's proposed increased rates and the rates contained in the household goods service carrier's maximum tariff.

(3) An application for amendment of tariff rates for any motor carrier not listed in paragraphs (1) and (2) of this Subsection shall include a proposed tariff.

(4) An application for a change in terms of service or a change in a daily time schedule for a scheduled shuttle service shall include:

(a) a proposed tariff including the proposed changes in terms of service or daily time schedule;

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

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

B. Pre-filing review. An applicant shall present a single copy of its proposed application for a change in tariff 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.

C. Complete applications. If the application contains all of the information and documents required by these rules, 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 Section 65-2A-36 NMSA 1978, and notify the applicant that the application is

complete. If the director determines that the application is incomplete, the director shall promptly return the application to the applicant along with a letter outlining the deficiencies in the application. Any comments by the director shall not constitute approval by the commission as to the reasonableness or lawfulness of any proposed tariff.

D. Docketing and notice.

The transportation division shall issue a docket number upon receipt of the complete application and all required documents. The applicant shall file the complete application and the filing fee with the transportation division of the commission. The director shall promptly post notice of the filed complete application on the commission's website and shall promptly file a recommendation regarding the application in the docket.

E. Publication. If the applicant for a tariff change is a full service motor carrier that is applying to increase any tariff rate, the commission or hearing examiner may require that the motor carrier publish the notice prepared by the director in a newspaper or journal circulated in the motor carrier's service territory. The applicant shall file proof of publication in the docket.

[18.3.6.12 NMAC - Rp, 18.3.6.14 NMAC, 2-13-15]

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.

18.3.6 NMAC, Tariffs, (filed on 12-10-02) - repealed effective 2-13-15.

NEW MEXICO PUBLIC REGULATION COMMISSION

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 - Rp, 18.3.7.1 NMAC, 2-13-15]

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 are subject to 18.3.7.11 NMAC only.

[18.3.7.2 NMAC - Rp, 18.3.7.2 NMAC, 2-13-15]

18.3.7.3 STATUTORY AUTHORITY: Sections 8-8-4, 65-2A-4, and 65-2A-29 NMSA 1978.

[18.3.7.3 NMAC - Rp, 18.3.7.3 NMAC, 2-13-15]

18.3.7.4 DURATION:

Permanent.

[18.3.7.4 NMAC - Rp, 18.3.7.1 NMAC, 2-13-15]

18.3.7.5 EFFECTIVE DATE:

February 13, 2015, unless a later date is cited at the end of a section.

[18.3.7.5 NMAC - Rp, 18.3.7.5 NMAC, 2-13-15]

18.3.7.6 OBJECTIVE: The purpose of this rule is to implement Section 65-2A-29 NMSA 1978.

[18.3.7.6 NMAC - Rp, 18.3.7.6 NMAC, 2-13-15]

18.3.7.7 DEFINITIONS: See 18.3.1.7 NMAC.

[18.3.7.7 NMAC - Rp, 18.3.7.7 NMAC, 2-13-15]

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 signature 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 affirmed by signature of the owner of the motor carrier, if the motor carrier is a sole proprietorship; of a partner, if the motor carrier is a partnership; of an authorized member, if the motor carrier is a limited liability company; or of 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, 18.3.7.8 NMAC, 2-13-15]

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;

G. the motor carrier's Combined Reporting System (CRS) tax identification number;

H. for all motor carriers, a list of equipment used in the motor carrier's operations if the motor carrier is using twenty-five (25) vehicles or less, including the stationing point for each vehicle, 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 a list of all stationing points;

I. for motor carriers operating pursuant to a certificate or permit, 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. the motor carrier's written statement certifying that it maintains a file containing a current MVD printout of the driving record and all other information required by these rules for each of its drivers;

M. the motor carrier's written statement certifying that it has received a current certificate of workers' compensation insurance or evidence that the motor carrier is not required to maintain workers' compensation insurance;

N. for all towing services and household goods services, a copy of the insurance policy or policies showing compliance with 18.3.3.11 NMAC;

O. an updated appointment of an agent for service of process, if applicable; and

P. the signature prescribed by subsection B of 18.3.7.8 NMAC.

[18.3.7.9 NMAC - Rp, 18.3.7.9 NMAC, 2-13-15]

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 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, 18.3.7.10 NMAC, 2-13-15]

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 five thousand dollars (\$5,000.00) 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 director 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, 18.3.7.11 NMAC, 2-13-15]

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, 18.3.7.12 NMAC, 2-13-15]

18.3.7.13 EQUIPMENT LISTS FOR MOTOR CARRIERS EXCEPT AMBULANCES:

Every motor carrier shall maintain at its principal place of business within the state an updated list of motor vehicles used in its authorized operations. The list shall identify each motor vehicle by make, model, year, VIN, and license plate number and shall state whether the motor vehicle is leased or owned.

[18.3.7.13 NMAC - Rp, 18.3.7.13 NMAC, 2-13-15]

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) copies of equipment leases or leases of certificates;
- (8) records of all complaints indicating dissatisfaction with rates, service, safety, equipment or driving practices; and
- (9) driver contracts as provided by Section 65-2A-24 B and C NMSA 1978.

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

C. All municipal taxicab services must maintain records documenting response times as required by 18.3.2.9G(7) and (8) NMAC.

D. All required records are subject to inspection by the commission as provided in Sections 65-2A-4 and 65-2A-29 NMSA 1978, 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.

E. 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, 18.3.7.14 NMAC, 2-13-15]

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, 18.3.7.15 NMAC, 2-13-15]

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, 18.3.7.16 NMAC, 2-13-15]

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.
 18.3.7 NMAC, Motor Carrier General Provisions - Reports, Records and Accounts (filed 12-10-02), repealed 2-13-2015.

Other History:

18.3.7 NMAC, Reports, Records, and Accounts (filed 12-10-2002) was replaced by 18.3.7 NMAC, Reports, Records, and Accounts, effective 2-13-15.

NEW MEXICO PUBLIC REGULATION COMMISSION

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 (NMPRC).

[18.3.8.1 NMAC - Rp, 18.3.8.1 NMAC,
2-13-15]

18.3.8.2 SCOPE: This rule
applies to all motor carriers operating
pursuant to a certificate or permit issued by
the commission.

[18.3.8.2 NMAC - Rp, 18.3.8.2 NMAC,
2-13-15]

18.3.8.3 STATUTORY

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

[18.3.8.3 NMAC - Rp, 18.3.8.3 NMAC,
2-13-15]

18.3.8.4 DURATION:

Permanent.

[18.3.8.4 NMAC - Rp, 18.3.8.4 NMAC,
2-13-15]

18.3.8.5 EFFECTIVE DATE:

February 13, 2015, unless a later date is
cited at the end of a section.

[18.3.8.5 NMAC - Rp, 18.3.8.5 NMAC,
2-13-15]

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

[18.3.8.6 NMAC - Rp, 18.3.8.6 NMAC,
2-13-15]

18.3.8.7 DEFINITIONS: See

18.3.1.7 NMAC.

[18.3.8.7 NMAC - Rp, 18.3.8.7 NMAC,
2-13-15]

18.3.8.8 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 18.3.8.11 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 an application
containing the information required in
Subsection E of 18.3.2.13 NMAC.

C. Director decision. If
the director finds that the transferee by
operation of law meets the requirements
of this section, the director shall promptly
issue a certificate or permit in the name of
the transferee by operation of law.
[18.3.8.8 NMAC - Rp, 18.3.8.12 NMAC,
2-13-15]

18.3.8.9 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 for a safety violation or for
failure to render reasonably continuous and
adequate service 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 Section 65-2A-36 NMSA 1978.

B. Notice. The director
shall promptly review an application for
reinstatement of an existing certificate or
permit following involuntary suspension. If
the director determines that the application
is complete, the director will prepare and
publish notice of the application pursuant to
18.3.2.15 NMAC.

**C. Procedure for
commission review.** Following the
expiration of the notice period of Section
65-2A-6 NMSA 1978, the director shall
promptly file a recommendation in the
docket. The commission may issue an order
approving reinstatement of a certificate
or permit if the statutory requirements of
Section 65-2A-27 NMSA 1978 have been
met.

[18.3.8.9 NMAC - Rp, 18.3.8.13 NMAC,
2-13-15]

18.3.8.10 CHANGES IN FORM OF LEGAL ENTITY; NAME; OR CONTROL OF A HOLDER OF THE CERTIFICATE OR PERMIT:

A. An application for a
change of name, form of legal entity, or
control of a holder of the certificate or
permit through issuance or transfer of stock
or other legal interest in a holder that is
a corporation, partnership, trust or other
legal business entity shall be on the form
prescribed by the director and shall include:

(1) the original
certificate or permit;

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

(3) the
information and documents required by
Paragraphs (1), (2), (5) through (8), and
(14) of Subsection A of 18.3.2.13 NMAC

(4) if the
application is for a change in name, the
applicable insurance filing forms in the new
name;

(5) 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

(6) if the
application is for a change in form of legal
entity or in control of a holder, a statement
that all assets will or will not be transferred
to the new entity.

B. If the applicant fails

to comply with any of the requirements of Subsection A of this section, the director may not approve the application. If the director determines the filing is complete, the director shall promptly issue a new certificate or permit. The new entity shall file copies of all documentation required by 18.3.2.13 NMAC if that documentation is different from that documentation of the old entity.

[18.3.8.10 NMAC - Rp, 18.3.8.14 & 15 NMAC, 2-13-15]

18.3.8.11 CANCELLATION OR VOLUNTARY SUSPENSION NOT EXCEEDING TWELVE CONSECUTIVE MONTHS OF A CERTIFICATE OR PERMIT:

A. Application. An applicant for cancellation or voluntary suspension that does not exceed twelve consecutive months 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 or voluntarily cancel in whole or in part;

(3) the date on which the applicant proposes to terminate or suspend all or part of its service and, if applicable, the length of the suspension; and

(4) if the motor carrier is a full service carrier and is applying for voluntary suspension of a certificate or permit, 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) why the applicant is not able to render reasonably continuous and adequate service for the period of time for which voluntary suspension is requested.

B. Review of ambulance service carrier applications. The director shall promptly review an application for cancellation or voluntary suspension of a certificate or permit submitted by an ambulance service, publish notice of the application on the commission's website, and file a recommendation in the docket. The commission may issue an order approving the cancellation or voluntary suspension of the ambulance service's certificate or permit if the commission finds that the cancellation or voluntary suspension would not be adverse to the public interest.

C. Review of all other motor carriers' applications. If the applicant fails to comply with any of the requirements of Subsection A of this section, the director may not approve the cancellation or

voluntary suspension of the certificate or permit. If the director determines the filing is complete and that the applicant is not an ambulance service, the director shall promptly cancel or suspend the certificate or permit.

[18.3.8.11 NMAC - Rp, 18.3.8.16 NMAC, 2-13-15]

18.3.8.12 REINSTATEMENT OF A CERTIFICATE OR PERMIT FOLLOWING VOLUNTARY SUSPENSION NOT EXCEEDING TWELVE CONSECUTIVE MONTHS:

A. Application. An applicant for reinstatement following a voluntary suspension that did not exceed twelve consecutive months shall file:

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

B. If the director finds that the application for reinstatement meets the requirements of this section, the director shall promptly approve the application. [18.3.8.12 NMAC - Rp, 18.3.8.18 NMAC, 2-13-15]

18.3.8.13 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 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, issued by the director, to be operated under the transferee motor carrier's original (NMPRC) transportation number.

(2) A motor carrier obtaining both additional and duplicate operating authorities 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, issued by the director, to be operated under the transferee motor

carrier's original NMPRC transportation number. The director 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 by the director 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 by the director.

C. Existing certificates and permits.

(1) The director shall consolidate to the extent practicable a motor carrier's existing certificate or certificates to reflect the terminology, service territory, and type of transportation service as used in the Motor Carrier Act.

(2) The director shall consolidate to the extent practicable a motor carrier's existing permit or permits to reflect the terminology, service territory, and type of transportation service as used in the Motor Carrier Act.

[18.3.8.13 NMAC - Rp, 18.3.8.19 NMAC, 2-13-15]

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 1-5-1993) 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.
18.3.8 NMAC, Motor Carrier General
Provisions - Changes in Certificates and
Permits (filed 12-16-2004), repealed 2-13-
2015.

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 1-1-2005.
18.3.8 NMAC, Changes in Certificates and
Permits (filed 12-16-2004) was replaced by
18.3.8 NMAC, Changes in Certificates and
Permits effective 2-13-2015

NEW MEXICO PUBLIC REGULATION COMMISSION

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 - Rp, 18.3.9.1 NMAC,
2-13-15]

18.3.9.2 SCOPE: This rule
applies to all household goods service
carriers and all passenger services, (except
charter services and commuter services)
leasing equipment.
[18.3.9.2 NMAC - Rp, 18.3.9.2 NMAC,
2-13-15]

**18.3.9.3 STATUTORY
AUTHORITY:** Sections 8-8-4 and 65-2A-
4 NMSA 1978.
[18.3.9.3 NMAC - Rp, 18.3.9.3 NMAC,
2-13-15]

18.3.9.4 DURATION:
Permanent.
18.3.9.4 NMAC - Rp, 18.3.9.4 NMAC,

2-13-15]

18.3.9.5 EFFECTIVE DATE:
February 13, 2015, unless a later date is
cited at the end of a section.
[18.3.9.5 NMAC - Rp, 18.3.9.5 NMAC,
2-13-15]

18.3.9.6 OBJECTIVE: The
purpose of this rule is to implement Section
65-2A-24 NMSA 1978.
[18.3.9.6 NMAC - Rp, 18.3.9.6 NMAC,
2-13-15]

18.3.9.7 DEFINITIONS: See
18.3.1.7 NMAC.
[18.3.9.7 NMAC - Rp, 18.3.9.7 NMAC,
2-13-15]

18.3.9.8 APPLICATION AND PRIOR APPROVAL REQUIRED:

A. Application. Prior to
leasing equipment, household goods service
carriers and passenger service carriers
(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;
- (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; and
- (3) the fee
required by Section 65-2A-36 NMSA 1978

B. Procedure. The
director shall promptly review applications
for approval of equipment leases. If the
director 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 Section 65-2A-24 NMSA 1978,
the director shall approve, in writing, the
proposed equipment lease.

C. Special procedure
for certain household goods service
leases. A household goods service may
lease a vehicle for not more than three (3)
days without prior approval if the lease
is required to complete a move that the
household goods service already has under
way, and it is not feasible to obtain prior
director approval. The household goods
service must submit a complete application
for the lease to the director within six (6)
days of leasing.

[18.3.9.8 NMAC - Rp, 18.3.9.8 NMAC,
2-13-15]

18.3.9.9 REQUIREMENTS FOR EQUIPMENT LEASES:

A. An equipment lease
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. 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.

F. 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, 18.3.9.9 NMAC,
2-13-15]

18.3.9.10 RESPONSIBILITY FOR COMPLIANCE WITH APPLICABLE LAW:

A. If an equipment lease
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, 18.3.9.10 NMAC,
2-13-15]

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.
 18.3.9 NMAC, Motor Carrier General Provisions - Leasing of Equipment filed 12-10-02, repealed 2-13-15

Other History:

18.3.9 NMAC, Leasing of Equipment filed 12-10-2002 was replaced by 18.3.9 NMAC, Leasing of Equipment effective 2-13-15.

NEW MEXICO PUBLIC REGULATION COMMISSION

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 (NMPRC).
 [18.3.11.1 NMAC - Rp, 18.3.11.1 NMAC, 2-13-15]

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 - Rp, 18.3.11.2 NMAC, 2-13-15]

18.3.11.3 STATUTORY

AUTHORITY: Sections 8-8-4, 65-2A-4, 65-2A-25, and 65-2A-26 NMSA 1978.
 [18.3.11.3 NMAC - Rp, 18.3.11.3 NMAC, 2-13-15]

18.3.11.4 DURATION:

Permanent.
 [18.3.11.4 NMAC - Rp, 18.3.11.4 NMAC, 2-13-15]

18.3.11.5 EFFECTIVE DATE:

February 13, 2015, unless a later date is cited at the end of a section.
 [18.3.11.5 NMAC - Rp, 18.3.11.5 NMAC, 2-13-15]

18.3.11.6 OBJECTIVE:

The purpose of this rule is to implement Sections 65-2A-25 and 65-2A-26 NMSA 1978.
 [18.3.11.6 NMAC - Rp, 18.3.11.6 NMAC, 2-13-15]

18.3.11.7 DEFINITIONS: In addition to the definitions in 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 - Rp, 18.3.11.7 NMAC,

2-13-15]

18.3.11.8 COST ESTIMATES:

An 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. The HGC shall provide a copy of the estimate to the shipper.

A. Binding estimates of total cost.

(1) The 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 the 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) An 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 (10%), 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 the 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, 18.3.11.8 NMAC, 2-13-15]

18.3.11.9 LIMITATIONS ON SERVICE OPTIONS: An HGC may offer the following service options. However, an

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.

The 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.

An 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) An HGC may require a minimum charge for exclusive use of a vehicle.

(2) An 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.

An HGC shall clearly describe on the bill of lading each accessorial service provided to a shipper.

G. Advanced charges.

The 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 - Rp, 18.3.11.9 NMAC, 2-13-15]

18.3.11.10 BILL OF LADING:

A. Before accepting household goods for transport, the 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. The HGC shall retain a copy of the bill of lading in its files for a period of three (3) 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, 18.3.11.10 NMAC, 2-13-15]

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 cash on delivery (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, 18.3.11.11 NMAC, 2-13-15]

18.3.11.12 INVENTORY:

A. Required. The household goods carrier (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, 18.3.11.12 NMAC, 2-13-15]

18.3.11.13 WEIGHING:

A. The HGC shall follow weighing practices designed to ensure 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 weighing's.

G. A shipper or its agent may request a re-weigh prior to the HGC unloading the shipment. Charges shall be based on the re-weigh.

H. No HGC shall charge for weighing or re-weighing.

[18.3.11.13 NMAC - Rp, 18.3.11.13 NMAC, 2-13-15]

18.3.11.14 RECEIPT FOR DELIVERY:

A. The 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 - Rp, 18.3.11.14 NMAC, 2-13-15]

18.3.11.15 LIABILITY FOR LOSS AND DAMAGE: The HGC is required to assume, at a minimum, liability for the released value of the shipper's goods.

A. Released value.

(1) The HGC shall not charge for assuming liability for the released value of a shipment.

(2) The HGC shall specify in its tariff a rate per pound for released value liability.

(3) The 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) The 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) The 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) The 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) The 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. The 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 - Rp, 18.3.11.15 NMAC, 2-13-15]

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. The 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.

[18.3.11.16 NMAC - Rp, 18.3.11.16 NMAC, 2-13-15]

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 NMPCR Operating Authority No.(insert operating authority number), 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 - Rp, 18.3.11.17 NMAC, 2-13-15]

18.3.11.18 HOUSEHOLD GOODS AGENTS:

A. Any contract or agreement between an 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. An HGC shall report any additions or deletions from the list to the commission as they occur.

C. The 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. The HGC's agent shall prominently display the trade name of the HGC principal on all vehicles owned by the agent and used in the pick-up and delivery of intrastate shipments.

E. The 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. The 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, 18.3.11.18 NMAC, 2-13-15]

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, 18.3.11.19 NMAC, 2-13-15]

18.3.11.20 PROVISIONS REGARDING SPECIFIC TYPES OF ARTICLES:

A. Hazardous matter. The 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 the 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.

The HGC shall not accept perishable articles or articles requiring refrigeration. The 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 (24) 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 - Rp, 18.3.11.20 NMAC, 2-13-15]

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 an 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 - Rp, 18.3.11.21 NMAC, 2-13-15]

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, 18.3.11.22 NMAC, 2-13-15]

18.3.11.23 HOUSEHOLD GOODS VOLUNTARY DISPUTE SETTLEMENT PROGRAM: A shipper may avail himself or herself of the commission's dispute settlement program by filing an informal complaint with the director of the commission's consumer relations division or the director's designee, as described in 1.2.2.14 NMAC.

A. Upon receipt of the informal complaint, the director of the

consumer relations division or the director's designee shall request that the HGC submit a response to the informal complaint. The director of the consumer relations division or the director's designee may request any other information from the shipper or the HGC that he or she believes is relevant to the dispute. The director of the consumer relations division or the director's designee shall submit a written decision on the dispute to the shipper and the HGC.

B. The decision shall become binding on the parties ten (10) days after it is served on them. If either party disagrees with the decision, it may appeal the decision by filing an "appeal of dispute settlement program decision" with the commission within ten days after the decision has been served on it. The appeal filing shall contain:

- (1) a copy of the written decision of the director of the consumer relations division;
- (2) a clear and concise statement of the relief sought;
- (3) a statement of any facts or legal principles that the appellant alleges the director of the consumer relations division misconstrued;
- (4) the mailing address and exact legal and "doing business as" (DBA) name of the HGC; and
- (5) the name and mailing address of the shipper.

[18.3.11.23 NMAC - N, 2-13-15]

18.3.11.24 HOUSEHOLD GOODS CARRIERS MAXIMUM

TARIFF: The maximum tariff for an HGC pursuant to Section 65-2A-4(A)(10) NMSA 1978 shall be the tariff that the HGC had in effect on July 1, 2014, plus a thirty three percent (33%) increase to every rate contained in that tariff.

[18.3.11.24 NMAC - N, 2-13-15]

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.

18.3.11 NMAC, Motor Carrier General Provisions - Household Good Carriers, filed 12-10-02, repealed 2-13-15.

NEW MEXICO PUBLIC REGULATION COMMISSION

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 (NMPRC).

[18.3.12.1 NMAC - Rp, 18.3.12.1 NMAC, 2-13-15]

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, 18.3.12.2 NMAC, 2-13-15]

18.3.12.3 STATUTORY

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

[18.3.12.3 NMAC - Rp, 18.3.12.3 NMAC, 2-13-15]

18.3.12.4 DURATION:

Permanent.

[18.3.12.4 NMAC - Rp, 18.3.12.4 NMAC, 2-13-15]

18.3.12.5 EFFECTIVE DATE:

February 13, 2015, unless a later date is cited at the end of a section.

[18.3.12.5 NMAC - Rp, 18.3.12.5 NMAC, 2-13-15]

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 - Rp, 18.3.12.6 NMAC, 2-13-15]

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

A. MVD means the motor vehicle division of the New Mexico taxation and revenue department;

B. normal business hours means any eight (8) hours between the hours of 8:00 a.m. to 5:00 p.m. excluding one (1) hour lunch on every weekday excluding state recognized holidays;

C. owner means a person who holds legal title to a motor vehicle or a person legally entitled to possession of the motor vehicle;

D. proof of ownership means a certificate of title, evidence of current registration of a motor vehicle or other legal documentation of ownership such as the vehicle owner's delegation of the power of attorney, or assignment of agent by notarized letter, and sufficient other documentation to identify an individual as the person described in the documents or as the person's agent;

E. storage means the safekeeping of motor vehicles entrusted to the custody of a towing service;

F. unclaimed motor vehicle has the meaning given in Section 66-1-4.18 NMSA 1978.

[18.3.12.7 NMAC - Rp, 18.3.12.7 NMAC, 2-13-15]

18.3.12.8 MINIMUM

EQUIPMENT STANDARDS: A towing service shall use 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.

[18.3.12.8 NMAC - Rp, 18.3.12.8 NMAC, 2-13-15]

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 eight thousand (8,000) pounds;

B. Class B - operating authority for towing between eight thousand one (8,001) and twelve thousand (12,000) pounds;

C. Class C - operating authority for towing between twelve thousand one (12,001) and twenty five

thousand (25,000) pounds;

D. Class D - operating authority for towing twenty five thousand one (25,001) pounds and over.
[18.3.12.9 NMAC - Rp, 18.3.12.9 NMAC, 2-13-15]

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 eight thousand (8,000) pounds.

A. Tow truck specifications.

- (1) GVW rating of not less than ten thousand (10,000) pounds;
- (2) Minimum of sixty (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, under reach, or roll-back vehicle carrier.

C. Vehicle carrier truck specifications.

- (1) GVW of not less than ten thousand (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 seventeen (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, 18.3.12.10 NMAC, 2-13-15]

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 eight thousand one (8,001) pounds, but shall not exceed

twelve thousand (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 eleven thousand (11,000) pounds;
- (2) Minimum of sixty (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, under reach, or roll-back vehicle carrier.

C. Vehicle carrier truck specifications.

- (1) GVW of not less than fourteen thousand (14,000) pounds;
- (2) Minimum of one hundred eight (108)" cab to axle length;
- (3) Dual rear wheels;
- (4) Automatic or manual transmission.

D. Vehicle carrier bed specifications.

- (1) Minimum of seventeen (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, 18.3.12.11 NMAC, 2-13-15]

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 twelve thousand one (12,001) pounds, but shall not exceed twenty five thousand (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 twenty five thousand (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, under reach, 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, 18.3.12.12 NMAC, 2-13-15]

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 twenty five thousand one (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) Gross Vehicle Weight (GVW) rating of not less than forty nine thousand (49,000) pounds;
- (2) Manual transmission;
- (3) Dual axle (tandem) rear wheels;
- (4) Minimum of one hundred twenty (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, under reach 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, 18.3.12.13 NMAC, 2-13-15]

18.3.12.14 MOVING MOTOR VEHICLES:

A. Written authorization required.

(1) **Law enforcement requests.** No towing service shall attach hoisting or towing devices or move, tow or molest in any way, any motor vehicle which the towing service has been ordered to tow by law enforcement without having first obtained written authorization from a law enforcement officer and a written inventory of the contents of the vehicle, except:

(a) **Of necessity:** 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;

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 that employs the officer.

(2) **Motor vehicles illegally parked on private property.** 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 the owner of the private property, or the owner's agent if the motor vehicle is illegally parked on private property; written authorization shall include the name and signature of the owner of the property or the name and signature of the property owner's agent 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.

(a) Before towing a motor vehicle that is illegally parked on private property, the towing service shall take a digital photograph or photographs of the motor vehicle showing its position on the private property.

(b) No towing service shall attach hoisting or towing devices or move, tow or molest in any way, any motor vehicle illegally parked on commercial property or at an apartment unless the property contains signs notifying the public that illegally parked motor vehicles may be towed. Before towing a motor vehicle that is illegally parked on private commercial property or at an apartment, the towing service shall take a digital photograph or photographs of the signage notifying the public that illegally parked motor vehicles may be towed.

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) pay or refund, directly or indirectly, any remuneration or anything of value to a private property owner or agent for the ability to perform nonconsensual tows on the private property;

(2) transport a motor vehicle of any type by pushing;

(3) 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;

(4) use a wheeled auxiliary device unless it is necessary to prevent further mechanical damage to the

motor vehicle being moved;

(5) 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, 18.3.12.14 NMAC, 2-13-15]

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 - Rp, 18.3.12.15 NMAC, 2-13-15]

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, 18.3.12.16 NMAC, 2-13-15]

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, 18.3.12.17 NMAC, 2-13-15]

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, 18.3.12.18 NMAC, 2-13-15]

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) electronic fuses, twenty five (25) minute flares, or reflective cones;

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, 18.3.12.19 NMAC, 2-13-15]

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) tarified 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, 18.3.12.20 NMAC, 2-13-15]

18.3.12.21 TOWING MULTIPLE MOTOR VEHICLES IN ONE TRIP:

When a towing service tows two (2) 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, 18.3.12.21 NMAC, 2-13-15]

18.3.12.22 ALTERED, MUTILATED, OR MISSING VEHICLE IDENTIFICATION NUMBER (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, 18.3.12.22 NMAC, 2-13-15]

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 performing nonconsensual tows must maintain at least one (1) 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 performing nonconsensual tows 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, 18.3.12.23 NMAC, 2-13-15]

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 1-888-427-5772, or via email, crd.complaints@state.nm.us."

D. Towing services may accept payment in cash or by credit card or by check. Towing services shall post in a conspicuous location at their place of business which alternative form of payment, credit card or check, is accepted.

[18.3.12.24 NMAC - Rp, 18.3.12.24 NMAC, 2-13-15]

18.3.12.25 [RESERVED]

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 three (3) 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 three (3) 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 and a copy of any document received 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 landowners'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 three (3) 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, 18.3.12.26 NMAC, 2-13-15]

18.3.12.27 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.

[18.3.12.27 NMAC - Rp, 18.3.12.28 NMAC, 2-13-15]

18.3.12.28 RECORDS: A towing service shall maintain for a period of three (3) years complete and permanent records of income, photographs, tow bills, and any other documentation required by this rule for non-consensual tows separate and apart from any other towing services and from any other business conducted by the towing service.

[18.3.12.28 NMAC - Rp, 18.3.12.29 NMAC, 2-13-15]

18.3.12.29 TOWING SERVICES WITH MULTIPLE STORAGE

FACILITIES: A towing service may apply to operate with multiple storage facilities by completing the application form prescribed by the director. The director shall approve the application if it contains the name of the towing service, the warrant number, the mailing address of the new storage facility, the physical address of the new storage facility, and a list of the equipment the towing service will station at the new storage facility. A towing service performing non-consensual tows shall transport towed vehicles to the nearest storage facility.

[18.3.12.29 NMAC - N, 2-13-15]

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.

18.3.12 NMAC, Motor Carrier General Provisions - Towing Service, filed 12-10-02, repealed 2-13-15

NEW MEXICO PUBLIC REGULATION COMMISSION

TITLE 18 TRANSPORTATION AND HIGHWAYS CHAPTER 3 MOTOR CARRIER GENERAL PROVISIONS PART 14 AMBULANCE SERVICES

18.3.14.1 ISSUING AGENCY:
New Mexico Public Regulation
Commission (NMPRC).
[18.3.14.1 NMAC - Rp, 18.3.14.1 NMAC,
2-13-15]

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 65-2A-38 and 65-6-6
NMSA 1978, 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, 18.3.14.2 NMAC,
2-13-15]

**18.3.14.3 STATUTORY
AUTHORITY:** Sections 65-2A-4 and 65-
6-4 NMSA 1978.
[18.3.14.3 NMAC - Rp, 18.3.14.3 NMAC,
2-13-15]

18.3.14.4 DURATION:
Permanent.
[18.3.14.4 NMAC - Rp, 18.3.14.4 NMAC,
2-13-15]

18.3.14.5 EFFECTIVE DATE:
February 13, 2015, unless a later date is
cited within a section.
[18.3.14.5 NMAC - Rp, 18.3.14.5 NMAC,
2-13-15]

18.3.14.6 OBJECTIVE:
The purpose of this rule is to establish
requirements for ambulance services.
[18.3.14.6 NMAC - Rp, 18.3.14.6 NMAC,
2-13-15]

18.3.14.7 DEFINITIONS: In
addition to the definitions in Sections 24-

10B-3 and 65-6-2, and 7.27.2 NMSA 1978
and 18.3.1 NMAC, as used in this rule:

A. advanced levels means
emergency medical services above the New
Mexico Emergency Medical Technician
(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 the inter-facility ambulance
transportation of patients whose needs
require the continuation of critical care
and medical interventions or equipment
ordered by a licensed physician. CCT may
be provided only by an ambulance agency
that has received special skill approval
by the department of health (DOH)
emergency medical services (EMS) bureau
and EMS medical direction committee for
CCT. Examples of critical care include
specialized ventilators, multiple medications
being monitored via intravenous (IV)
pumps, intra-aortic balloon pumps, external
pacemakers and other medications and
procedures as determined by the department
of health EMS bureau and the EMS medical
direction committee.

**C. emergency medical
technician basic (EMT basic)** means the
pre-hospital and inter-facility care and
treatment prescribed in the EMS scope
of practice found in 7.27.11 NMAC,
Supplemental Licensing Provisions, that
can be performed by all licensed emergency
medical technicians;

**D. emergency medical
technician intermediate (EMT
intermediate)** means certain advanced pre-
hospital and inter-facility care and treatment
prescribed in the EMS scope of practice
found in 7.27.11 NMAC, Supplemental
Licensing Provisions, 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 the EMS scope of practice
found in 7.27.11 NMAC, Supplemental
Licensing Provisions, 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 occurrence or onset of what
reasonably appears to be a traumatic or
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 physical and or mental 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. EMS bureau is the emergency medical systems bureau in the New Mexico department of health.

I. inter-facility transfer means the transportation of a person between health care facilities with the concurrence of a sending and a receiving physician;

J. 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;

K. NEMSIS means the national emergency medical services information system, the federal EMS data collection system administered by the United State department of transportation national highway traffic safety administration (NHTSA).

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 time means the period in minutes that measures from the time a dispatch agency has the necessary information to dispatch an ambulance service until the time an EMS crew arrives at the scene of the emergency;

N. special event ambulance means an ambulance staffed with a minimum of two (2) licensed EMT's, working under agreement or contract, in dedicated stand-by status at a special event such as a football game, concert, wildland fire event, rodeo, movie set, or other event that will, under their public regulation commission ((PRC) granted emergency transport authority for the territory/ catchment area, transport event participants, attendees, or workers.

[18.3.14.7 NMAC - Rp, 18.3.14.7 NMAC, 2-13-15]

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. An ambulance service and its personnel or agents may accept a refusal

for treatment or transport from a patient who has been informed of the potential consequences of such a refusal.

B. When ambulance transport is requested or determined to be necessary, an ambulance service shall transport a patient requiring medical treatment to the closest appropriate facility capable of providing definitive care and treatment, as determined by the service's medical director through local EMS system protocol.

C. An ambulance service shall give priority to emergency response calls.

D. An ambulance service shall be available twenty four (24) hours a day, three hundred sixty five (365) days a year.
 [18.3.14.8 NMAC - Rp, 18.3.14.8 NMAC, 2-13-15]

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, 18.3.14.9 NMAC, 2-13-15]

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, to include a policy on drug and alcohol testing for employees reporting for duty impaired or who have been involved in a vehicle accident or other work related event;

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 assuring a rested and fit-for-duty-staff; 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, 18.3.14.10 NMAC, 2-13-15]

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 (2) 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 and the scope of skills and medications approved for the service by the EMS Bureau and EMS medical direction committee, may accompany a patient in an ambulance patient compartment, as long as one (1) EMT is also present in the patient compartment.

(3) For ambulances with special skill approval as critical care units, one (1) special skill critical care certified paramedic must be in the patient compartment along with at least

one (1) other advanced provider; the second advanced provider may be:

- (a) a special skill critical care paramedic; or
- (b) a nurse with appropriate training as approved by the EMS agency medical director for the scope of skills and medications listed in the critical care special skills application; or
- (c) other advanced care provider, such as a physician, certified nurse practitioner, physician assistant, respiratory therapist, or other specially trained advanced caregiver appropriate for the care being delivered, as approved by the ambulance service medical director for the scope of skills and medications listed in the critical care special skills application.

(4) For EMS Bureau approved community EMS or advanced paramedic practice programs, at least one (1) caregiver with the appropriate training and certification as determined by the EMS bureau and approved by the service medical director must attend and assess the patient.

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 to establish temporary medical direction with a local, regional or state EMS medical director. The service shall be limited to the skills and medications allowed to be administered without medical direction by the EMS scope of practice (7.27.11 NMAC) until appropriate medical direction is established. [18.3.14.11 NMAC - Rp, 18.3.14.11 NMAC, 2-13-15]

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, unless the service is temporarily utilizing a borrowed

vehicle due to unusual and unforeseen circumstances (repair of vehicles or other situations).

C. An ambulance service shall update the list and submit it to the commission within ten (10) days of the date on which an ambulance is either put into service or taken out of service. [18.3.14.12 NMAC - Rp, 18.3.14.12 NMAC, 2-13-15]

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 General Services Administration (GSA) standards for operation, crash performance and safety as defined in a national standard approved by the commission. [18.3.14.13 NMAC - Rp, 18.3.14.13 NMAC, 2-13-15]

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 and EMT intermediate use or one (1) semi-automatic/manual defibrillator monitor for paramedic use, 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;

C. oxygen delivery and patient ventilation devices, which include:

- (1) fixed, on-board oxygen supply which meets GSA specifications;
- (2) portable oxygen devices which are capable of delivering at least sixty (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;
- (3) ventilation

devices including manual, self-filling, bag-valve-mask (BVM) ventilation devices, in adult, child, infant and neonatal sizes; the BVM shall be equipped with a sufficient supply of see through adult, child, infant, and neonatal masks; electronic or colorimetric end tidal carbon dioxide detection equipment for adults and pediatric patients are also required;

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 (1) 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 ten (10)-pound, or two (2) minimum five (5)-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 emergency medical services bureau (EMSB) and a copy of the EMSB/DOH "EMS communications system (EMSCOM) manual;"

M. scene safety protective equipment including:

(1) six (6) highly visible lighted electric or chemical warning devices suitable for nighttime use;

(2) reflective apparel meeting American National Standards Institute standards 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 for which the providers are licensed.

[18.3.14.14 NMAC - Rp, 18.3.14.14 NMAC, 2-13-15]

18.3.14.15 REQUIRED

SUPPLIES: When an ambulance is dispatched, it shall carry adequate quantities of readily available equipment and supplies to ensure the level of care described in the ambulance service protocols signed by the physician medical director, including but not limited to:

A. twelve (12) sterile bandages, soft roller, self-adhering type, or equivalent to a total length of 24 yards;

B. six (6) triangular bandages or equivalent product or substitute;

C. one (1) box adhesive bandages;

D. one (1) pair trauma shears and one (1) penlight (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), or adequate supply, 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 zero (0) through five (5) (infant through adult), and one (1) set of nasopharyngeal airways (28FR, 32FR, 34FR, and 36FR, all for adult use);

M. three (3) sterile 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, gowns,

caps, eye protection, sharps containers, and other equipment to protect all patient care providers dispatched with the ambulance; in addition, appropriate 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 at least two (2) packages of oxygen supply tubing;

Q. appropriate large and small bore tip suction catheters (6f-14f), rigid tip suction catheter, and hoses;

R. one (1) bulb suction device;

S. one (1) emesis basin or large plastic bag;

T. two (2) liters of sterile water, normal saline, or other appropriate irrigation solution; 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, 18.3.14.15 NMAC, 2-13-15]

18.3.14.16 MEDICATIONS:

An ambulance service shall adhere to the appropriate EMS scopes of practice for EMS personnel regarding approved medications, provided the medications are listed in the service's treatment guidelines or protocols and approved by the local physician medical director for use by the ambulance service. 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, 18.3.14.16 NMAC, 2-13-15]

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 or equivalent product/substitute;

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.

Neonate, infant and child BVM must 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 - Rp, 18.3.14.17 NMAC, 2-13-15]

18.3.14.18 SPECIAL SKILLS;

Critical Care Transport (CCT), and

PRC certified services providing

Advanced Practice/Community EMS:

An ambulance service wishing to provide special skills of EMS shall:

A. For special skills, submit a special skills application to the EMS bureau, as provided in 7.27.2 NMAC, Licensing of Emergency Medical Services Personnel; if the special skills application is approved and changes the potential level of reimbursement sought, for example when a basic EMT ambulance service will now perform an advanced level medical intervention, the service must file an application for a change in tariff with the commission if it seeks reimbursement for advanced levels service. Personnel performing special skills for an ambulance service must be an employee or a volunteer for the service and listed as an employee or volunteer on the annual service report.

B. For a service with EMS bureau and EMS medical direction approval to provide CCT, the ambulance service must file an application with the commission for the appropriate tariff(s) to seek reimbursement for CCT.

[18.3.14.18 NMAC - Rp, 18.3.14.18

NMAC, 2-13-15]

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 advanced level 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 twenty four (24) hours a day, three hundred sixty five (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 by an ambulance service, at least one (1) person trained and licensed at that advanced level shall respond to the scene; an advanced provider may be one (1) of the two (2) minimum EMT responders to the emergency, and an advanced level provider must accompany the patient in the patient compartment of the ambulance during transport.

(3) If advanced 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 and medical director approved local protocols.

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/semi automatic 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 (fifteen (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 access devices;

(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 appropriate equipment sizes and drug doses 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 until 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) adult stylets for endotracheal tubes; if service has special skill approval for pediatric (under age 12) intubation, two (2) pediatric stylets must be in stock;

(11) one (1) each pediatric and adult magill forceps;

(12) assorted endotracheal tubes in sizes: uncuffed 2.5-6.0 if service has special skill approval for pediatric (under age twelve (12)) intubation and cuffed 6.0-8.0;

(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;

(14) adult and pediatric sized supraglottic/laryngeal airways, and multi-lumen airways as approved by service medical director. [18.3.14.19 NMAC - Rp, 18.3.14.19 NMAC, 2-13-15]

18.3.14.20 NON-EMERGENCY AND SCHEDULED AMBULANCE TRANSPORT SERVICE:

An ambulance service may provide scheduled pre-hospital or inter-facility transport of 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. Vehicles that are capable of transporting gurneys, but are not certified ambulances, shall not transport recumbent patients requiring medical monitoring. 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 (1) EMT of the appropriate level for the transport and one qualified driver; the EMT shall be in the patient compartment

attending the patient whenever a patient is being cared for or transported.

C. Stretcher vans; wheelchair vans: use; restrictions: A stretcher van may transport a person who:

(1) Needs routine transportation to or from a medical appointment or service if that person is convalescent or otherwise non-ambulatory and does not require medical monitoring en route to the destination facility, or aid, care or treatment during transport.

(2) Is an inpatient at a facility and needs transportation to another hospital for diagnostic tests if that person's physician authorizes the use of a stretcher van.

D. A stretcher van or wheelchair van shall not transport a person who:

(1) Is being administered intravenous fluids.

(2) Needs oxygen unless that person's physician has prescribed oxygen as a self-administered therapy.

(3) Needs suctioning.

(4) Demonstrates signs of a visible injury and has not yet been evaluated by a physician.

(5) Is experiencing an acute condition or the exacerbation of a chronic condition.

(6) Needs to be transported from one hospital to another hospital if the destination hospital is the same level or a higher level as the hospital of origin.

(7) Is being medically monitored at the sending facility and will continue to be medically monitored at the destination facility. [18.3.14.20 NMAC - Rp, 18.3.14.20 NMAC, 2-13-15]

18.3.14.21 SPECIAL EVENT AMBULANCE:

A. A dedicated special event ambulance working under agreement or contract with the event organizer or event command at an event such as a football game, concert, wildland fire event, rodeo, movie set or other event must be staffed with a minimum of two (2) licensed EMT's and be properly equipped as described in this rule; the ambulance may, under their commission granted emergency transport authority for the territory/catchment area, transport event participants, attendees, or workers. Transports from these events are emergency transports, and may not be considered inter-facility transfers unless the inter-facility transfer definition is met. Dedicated stand-by status ambulances

shall not respond to emergency calls off site of the event except in cases of disaster or other unusual medical circumstance where mutual aid is requested and granted. An EMS agency without commission granted emergency transport authority providing stand-by EMS for an event shall work with the area's approved PRC emergency transport ambulance provider to ensure proper transport of patients, or transport only in the circumstances found in Paragraph (2) of Subsection B of 7.27.10.16.

B. Non-dedicated stand-by status units may respond to emergency calls off site of the event.
[18.3.14.21 NMAC - Rp, 18.3.14.21 NMAC, 2-13-15]

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 from each ambulance service to the commission. The annual service report shall contain:

A. the names of all individuals serving as EMS personnel, including employed or volunteer status as appropriate, this will include 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 18.3.4.14 NMAC.
[18.3.14.22 NMAC - Rp, 18.3.14.22 NMAC, 2-13-15]

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 department of transportation (DOT) physical examinations, approved firefighter fitness exam certification, or other approved physician certifications, and emergency vehicle operator training history; ambulance services staffed primarily by volunteers may apply for an exemption to the physical examination requirement if proof of financial hardship is provided to the commission; **B.** EMS personnel licensure;

C. statement of employment or volunteer status, including employment start and stop dates;

D. records of equipment, such as reports, repair and maintenance records, equipment lists, vehicle titles, and registration certificates;

E. complete accounts;

F. organized records of all ambulance runs, including a copy of the patient care record.

[18.3.14.23 NMAC - Rp, 18.3.14.23 NMAC, 2-13-15]

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 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 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, electronically or 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 or EMT's primary impression;
- (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 an electronic or written 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 twenty four (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; service medical protocols shall not exceed the New Mexico EMS scope of practice, unless a special skill has been granted; medical protocols and operational guidelines should be developed in collaboration with receiving hospitals and EMS agencies within the territory or patient catchment area; adult and pediatric patient protocols shall be on the unit at all times, in electronic or hard copy form;

F. medical director review of patient care: an ambulance service medical director shall review patient care records at least quarterly 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; receiving hospitals and other EMS agencies within the patient catchment area should be

invited to participate in these reviews when appropriate;

G. confidentiality of medical records: an ambulance service may only release patient care records as provided by state and federal law, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA).

[18.3.14.24 NMAC - Rp, 18.3.14.24 NMAC, 2-13-15]

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 18.3.2.13 NMAC. The director shall prepare a notice of application as provided in 18.3.2.15 NMAC. The director shall reissue the certificate for the period of time prescribed in Section 65-6-5 NMSA 1978 unless staff or an interested person objects. If there is an objection, the director shall process the application in accordance with 18.3.2.16 NMAC. [18.3.14.25 NMAC - Rp, 18.3.14.25 NMAC, 2-13-15]

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, 18.3.14.26 NMAC, 2-13-15]

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. 18.3.14 NMAC, Motor Carrier General Provisions - Ambulance Services, filed 12-16-04, repealed 2-13-15.

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. 18.3.14 NMAC, Motor Carrier General Provisions - Ambulance Services, filed 12-16-04, repealed 2-13-15.

NEW MEXICO REGULATION AND LICENSING DEPARTMENT ATHLETIC COMMISSION

This is an amendment to 15.6.1 NMAC, adding Section 21, effective 02-13-15.

15.6.1.21 CHANGE OF DECISION:

A. Commission's power to change decision: If the commission determines that any of the situations listed below has occurred with regard to any event, contest or exhibition of unarmed combat, then the decision rendered shall be changed as the commission directs.

B. Collusion: That there was collusion affecting the results of any bout.

C. Scoring error: That a mathematical or transcription error occurred in the compilation of the judge's scorecards that would indicate that the official decision had been awarded to the wrong contestant.

D. Drugs or foreign substances: That the unarmed combatant is found to have violated Part 15 of the commission's rules and regulations, wherein

the unarmed combatant has tested positive for a prohibited substance that was in the unarmed combatant's system at the time of their event, contest or exhibition of unarmed combat.

E. Violation of rules and regulations: That there was a clear violation of the commission's rules and regulations governing the sanctioning of unarmed combat that affected the result of the event, contest or exhibition.
[15.6.1.21 NMAC - N, 02-13-15]

NEW MEXICO REGULATION AND LICENSING DEPARTMENT ATHLETIC COMMISSION

This is an amendment to 15.6.12 NMAC, Sections 14, 15, 17, 20, 22, 25-27, 29-31, 34 & 36, effective 02-13-2015.

15.6.12.14 KICKING JUDGE'S DUTIES: There will a kicking judge assigned to each contestant in a contest.

A. Location of kicking judges: Each kicking judge will be positioned at ringside sitting opposite his contestant's opposing contestant's corner.

B. Responsibility of kicking judges: It is the responsibility of the kicking judges to determine the legality of the kicks executed by his own contestant, and to keep count of the number of kicks they determine to be legal.

C. Tracking the number of kicks with flip-cards: Both kicking judges shall use a card set of eight (8) flip-cards numbered one (1) through eight (8) to keep track of the number of kicks executed by his own assigned fighter. The promoter of the event shall supply all flip-cards for the kicking judges' use.

(1) When the first legal kick is thrown, the kicking judge will hold up the card with the number one (1), and as each legal kick is thrown, he will continue to hold up the appropriate card for the number of legal kicks thrown by his contestant during the round.

(2) If a contestant executes less than the minimum number of required legal kicks in any one (1) round, the kicking judge will immediately notify the referee of the number of kicks thrown.
[15.6.12.14 NMAC - N, 03-23-2002; A, 02-13-2015]

15.6.12.15 MINIMUM KICKING REQUIREMENTS:

A. Legal kicks: Each contestant must execute at least eight (8) legal kicks per round in a contest bout.

(1) Legal kicks

are considered those that are attempts to land hard on a target area of the opponent's body with the intent to do damage.

(2) The determination as to which kicks will be counted as legal is made by the kicking judges.

B. Points deduction: One (1) point will be deducted from each scoring judge's ballot for each legal kick less than eight (8) thrown by a contestant.

C. Penalty for failing to fulfill MKR: A contestant will be immediately disqualified if he does not fulfill his minimum kicking requirement (MKR) in any of the following contests:

(1) in any two (2) rounds of a bout that is three (3), four (4), five (5), or six (6) rounds in length; or

(2) in any three (3) rounds of a bout that is seven (7), eight (8), nine (9), ten (10), or eleven (11) rounds in length; or

(3) in any four (4) rounds of a twelve (12)-round world title bout.

D. MKR requirement reduced: MKR requirements will be reduced by one (1) kick for both contestants in any given round for standing eight (8) count or mandatory eight (8) count. (For example, if a round has one (1) knockdown, the minimum kick requirement would be seven (7) for that round.) Each kicking judge will drop a card for each contestant during the standing or mandatory eight (8)-count to compensate for the MKR reduction.

[15.6.12.15 NMAC - N, 03-23-2002; A, 02-13-2015]

15.6.12.17 SCORING:

A. Balloting by scoring judges: The three scoring judges of a contest will each select a winner of each round at the end of each round, marking their ballots accordingly.

B. Ballots final: Once the respective scoring judges have marked the ballots, no changes of the ballots are allowed, except at the express directive of the sanction body representative or the commission representative.

C. Scoring system: Each scoring judge scores all rounds by recording a score of not more than ten (10) and not less than five (5) points for the winner of each round according to the following qualifications:

(1) **10-10 score:**
A 10-10 score indicates an even round. Neither contestant distinguished himself as being more effective than the other. In addition, the contestants appeared equal in the other areas used to break an even round, such as opponent control, ring strategy, and overall conditioning and abilities as a

complete karate contestant (with emphasis on kicking ability).

(2) **10-9 score:** A 10-9 score indicates that one (1) contestant distinguished himself as the more effective fighter during the round as described in Paragraph (1). This score is used often, and indicates an obvious margin between the contestants. Should one contestant have been only slightly better in a round, an appropriate score would be 10-9.5.

(3) **10-8 score:** A 10-8 score is used sparingly, but it indicates a round in which one (1) contestant was in constant control and unquestionably outclassed his opponent. This contestant must also have obviously stunned his opponent, usually including at least one (1) knockdown or one (1) standing eight (8)-count. If there were no knockdowns or standing eight (8)-counts, there must still have been enough damage done to indicate that at least one (1) of the occurrences was imminent, and in this case a more appropriate score would be 10-8.5.

(4) **10-7 score:**
A 10-7 score is very seldom used. It indicates total domination by one (1) fighter to the point that the referee nearly stops the bout. The losing fighter must have been completely dominated and controlled, generally including at least two (2) knockdowns or two (2) standing eight (8)-counts. A 10-7-5 score may be given to indicate a round that a scoring judge determines falls between the qualifications for a 10-7 round and a 10-8 round.

(5) **10-5 score:** A 10-5 score is almost never used. Generally is a 10-6 score seen only on national continental, or world title bouts in which the three (3)-knockdown rule has been waived. One (1) contestant must have been so completely dominated as to have been knocked down at least three (3) times and never to have really been in the fight at all. Scores of 10-6.5 and 10-5.5 also require these circumstances.

D. [RESERVED]

E. Points totaled: Points shall be totaled on each scoring judge's scorecard to determine that judge's selection of a winner. Each judge's selection will count as one (1) vote towards determining the overall winner of the bout.

(1) **A scorecard draw:** If a judge's scorecard, when totaled, reflects an equal number of points for both contestants, that judge will have voted for a draw.

(2) **A majority decision:** If two (2) judges' scores favor one (1) contestant, and the other judge votes for a draw, the two (2) votes for the same contestant shall declare a winner by a majority decision.

(3) **A unanimous**

decision: If all three (3) judges' scores favor one (1) contestant, that contestant shall be declared the winner by a unanimous decision.

(4) A split

decision: If one (1) judge votes for one (1) contestant and the remaining two (2) judges vote for the other contestant, the contestant receiving the two (2) votes shall be declared the winner by split decision.

[15.6.12.17 NMAC - N, 03-23-2002; A, 02-13-2015]

15.6.12.20 FOULS:

A. Categories of fouls:

At the discretion of the referee, fouls may be classified into two (2) categories: one to three (1-3) point fouls.

B. Referee's discretion regarding foul penalty: The referee's decision as to the severity of the penalty for a foul committed will be based on the intent of the contestant committing the foul and the result of the foul.

(1) At the time of the infraction, the referee will indicate to the scorekeeper the number of points to be deducted from each scoring judges' ballot at the end of the round; or

(2) The referee may simply issue a warning to the contestant, and no points will be deducted.

C. Referee determines scoring of the foul: The scoring of the foul will be based on the referee's determination, as follows:

(1) If the referee determines that the foul was obviously committed by one (1) of the contestants, and that the fouled contestant did not contribute to the injury (e.g., by ducking into a knee; moving into an oncoming forehead, etc.), the referee will instruct the scorekeeper to deduct the appropriate number of points from the scorecard of the contestant who committed the foul.

(2) If the referee determines that the injured contestant was responsible for his own injury, the referee will not penalize his opponent in any manner. In this case, if the referee or ring physician determines that the injured contestant is unable to continue, he will lose the contest by a technical knockout.

(3) If an injury occurs as a result of a blind foul, the referee may, at his sole discretion, confer with any or all of the three judges and the ISKA representative to determine which contestant was at fault. The referee may consider any, all, or none of these officials' input in making his final determination.

D. List of Fouls:

(1) head butting;
(2) striking with the elbow or knee;
(3) striking or

kicking to the hip, groin, knee, or any area below the waist;

(4) intentional striking or kicking to the back of the head, neck, or to the throat;

(5) striking to the face with any part of the arm other than the gloved hand (as in the spinning-backfist attempt that lands with the forearm or elbow);

(6) linear, or straight-in, striking or kicking to the spine;

(7) punching or kicking a contestant when he is down. However, if a contestant is on his way to the floor, the opponent may continue his attack until the other opponent touches the floor with any part of his body other than his feet;

(8) takedowns, other than legal sweeps;

(9) intentionally pushing, shoving or wrestling an opponent to the canvas or out of the ring with any part of the body;

(10) illegal sweeping (see 15.6.12.32.D NMAC);

(11) attacking on the break when both contestants have been instructed by the referee to take one (1) [step] step back;

(12) attacking after the bell to end the round has sounded;

(13) holding and hitting (e.g. holding with one (1) hand, especially behind the neck, and hitting with the other hand);

(14) grabbing or holding on to an opponent's foot or leg, followed by a takedown, strike, or kick;

(15) holding the ropes with one (1) hand while kicking, punching, or defending with the other hand or with the legs;

(16) leg checking; the contestant whose leg was checked shall have an attempted kick counted by the kicking judge;

(17) purposely going down without being hit, which will result in the referee's automatically administering an eight (8)-count as specified in the rule on knockdowns; no points will be subtracted from the scorecard by the scorekeeper in this case, but the judges will consider this knockdown as they would any other knockdown;

(18) using abusive language in the ring on in the corner, as determined by the referee;

(19) hitting or flicking one's opponent with an open glove or thumb;

(20) intentionally evading contact;

(21) clinching;

(22) intentionally delaying the contest through the use

of improper equipment with seconds remaining in the ring after the start of the round;

(23) beginning a round without a mouthpiece; or intentionally dropping a mouthpiece; or intentionally spitting out the mouthpiece, etc.;

(24) spitting, slapping, or biting;

(25) palm heel strikes;

(26) any unsportsmanlike trick or action causing injury to an opponent.

E. Consequences of delivering a fouling technique deemed malicious:

A contestant who executes a fouling technique which is deemed malicious (i.e. delivered with the intent of causing injury above and beyond the scope reasonably expected in a contest of this nature), may be subject to sharing the medical, as well as, related recovery and recuperation expenses suffered as a result of the fouling technique by the injured opponent.

[15.6.12.20 NMAC - N, 03-23-2002; A, 02-13-2015]

15.6.12.22 SCOREKEEPER SCORES THE FOULS:

A. Points deducted for fouls: When a referee determines that a foul has been committed, and that the fight will continue, the scorekeeper will automatically deduct the appropriate number of points from each of the judge's scorecards.

B. When both contestants commit fouls: When both contestants commit fouls, the scorekeeper will deduct points from each judge's scorecard for each contestant.

C. Repeated fouls: In the event that a contestant commits two (2) three (3)-point fouls in one round, or commits the same foul two (2) or more times during the course of a contest:

(1) The contestant may be automatically disqualified by the referee.

(2) The referee may also allow the fight to continue if he feels that no malicious intent is involved and instruct the scorekeeper to deduct the appropriate points for each foul.

D. No less than zero points scored: No contestant will be scored less than zero in a round.

[15.6.12.22 NMAC - N, 03-23-2002; A, 02-13-2015]

15.6.12.25 METHOD OF COUNTING OVER A FIGHTER WHO IS DOWN:

A. Beginning the count: When a contestant is knocked down or

purposely falls down, the referee shall instruct the opponent to retire to the farthest neutral corner of the ring by pointing to that corner, and will immediately begin the count over the contestant who is down.

B. Referee's audible

count: The referee will audibly announce the passing of the seconds, accompanying the audible count with motions of his arm; the motion indicating the end of each second.

C. Mandatory eight

(8)-count: If a contestant is knocked down, the referee will automatically begin a mandatory eight (8)-count and then, if the fighter appears able to continue, will allow the bout to resume.

D. Timekeeper's count:

The timekeeper will give the referee the correct one (1)-second interval for his count by slapping his hand downward on the ring and audibly or visually indicating the seconds passing.

E. Official count: The

referee's count is the only official count.

F. Stopping the count:

(1) The referee

shall not count past eight (8) if the contestant has risen to his feet.

(2) Should

the opponent fail to stay in the farthest neutral corner as instructed by the referee, the referee shall stop the count until the opponent has returned to the neutral corner. After the opponent returns to the neutral corner, the referee shall resume the count at the point from which it was interrupted.

G. Determination that

immediate attention is required: If in the referee's opinion, he believes the downed contestant will be unable to rise by the count of ten (10) and requires immediate attention, he may signal the end of the bout before the count of ten (10). He will do so by waving his arms in front of his face and immediately summoning the downed contestant's corner personnel and the ring physician to attend the downed contestant.

H. Stopping the count

during physician's examination: The referee may, at his discretion, request that the ringside physician examine a contestant during the bout. Should the examination occur during the course of a round, the clock will be stopped until the examination is complete.

[15.6.12.25 NMAC - N, 03-23-2002; A, 02-13-2015]

15.6.12.26 THE KNOCKOUT

OR KNOCKDOWN: A contestant will be declared knocked down if any portion of his body other than his feet touches the floor.

A. Being pushed

or slipping: A contestant will not be declared knocked down if he is pushed or accidentally slips to the floor. The referee

will make the decision as to whether a contestant was pushed or slipped to the floor, rather than being knocked down.

B. Knockout declared:

In all full contact karate contests, if the downed contestant fails to rise before the count of ten (10), the referee will declare him knocked out, and the bout will be awarded to the opponent by a knockout.

C. Signaling the

knockout: If the contestant taking the count is still down when the referee calls the count of ten (10), the referee will wave both arms to indicate that the contestant has been knocked out and will signal that the opponent is the winner.

D. No being saved by the bell: There is no being saved by the bell. A round's ending before the referee reaches the count of ten (10) will have no bearing on the count.

E. Technical knockout:

If a referee determines, during the rest period between rounds, that a contestant is unable to continue the bout, he can declare the opponent the winner by a technical knockout.

F. Going through

the ropes: When a contestant has been wrestled, pushed, or has fallen through the ropes during a bout, the provisions in 15.6.12.29 NMAC of this rules shall apply. The timekeeper will begin the count pursuant to that rule.

G. Contestants go down

simultaneously: If both contestants go down simultaneously, the count will begin and continue as long as one of the contestants is down.

(1) If one (1)

contestant rises before the count of ten (10), and the other contestant remains down through the count of ten (10), the contestant who rose shall be declared the winner by a knockout.

(2) If both

contestants rise before the count of ten (10), the round will continue.

H. Technical draw: If both

contestants remain down until the count of ten (10), the bout will be stopped and the decision will be a technical draw.

I. Resuming the count:

Should a fighter who has been knocked down rise before the count of ten (10) is reached and then go down immediately without being struck, the referee shall resume the count where it was left off.

J. Starting a new count:

If the contestant stands for more than two (2) seconds, or is in some way touched by his opponent before going down, the referee will begin a new count.

[15.6.12.26 NMAC - N, 03-23-2002; A, 02-13-2015]

15.6.12.27 STANDING EIGHT

(8)-COUNT:

A. Amateur and

professional contests: In all amateur and professional contests, the referee may, at his discretion, administer a standing eight-(8)-count to a contestant who is in trouble, but who is still standing.

B. Opponent to neutral

corner: The referee shall direct the opponent to a neutral corner, and then begin counting from one (1) to eight (8), examining the contestant in trouble as he counts.

C. Contest ordered to

resume: If, after completing the eight (8)-count, the referee determines that the contestant is able to continue, he shall order the bout to resume.

D. Technical knockout

declared: If, after completing the eight (8)-count, the referee determines that the contestant is unable to continue, he shall stop the bout and declare the opponent the winner by a technical knockout.

[15.6.12.27 NMAC - N, 03-23-2002; A, 02-13-2015]

**15.6.12.29 WHEN A
CONTESTANT FALLS FROM THE
RING DURING THE ROUND:**

A. Time-out called: When

a contestant has been wrestled, pushed, or has fallen over or through the ropes during a bout, the referee will call time-out, and if the fallen contestant's ability to return to the ring seems questionable, the referee may ask the ringside physician to examine the contestant.

B. Rules on assisting

fallen contestant: If, in the opinion of the physician and the referee, the fallen contestant is able to continue the bout, only one handler from his corner will be allowed to assist the fallen contestant back into the ring.

(1) The handler

will do no more than assist the fallen contestant.

(2) If the handler

is found performing any other tasks as are normal during rest periods (i.e. stopping a cut, etc.), the referee will immediately penalize or disqualify the fallen contestant.

C. Penalties: A contestant

who deliberately wrestles, pushes, or throws an opponent out of the ring, or who hits his opponent when he is partly out of the ring and prevented by the ropes from assuming a position of defense, will be penalized by the referee.

D. Disqualification: If the

tactic committed in [Section] Subsection C of this [rule] section results in injury to the opponent, the guilty contestant may be disqualified according to the appropriate rulings under 15.6.12.20 NMAC of the commission's rules and regulations

regarding fouls.

E. Situation where counting begins: When a contestant intentionally falls through the ropes, or was knocked from the ring by a fair blow (which is to say that he was not wrestled, pushed, or otherwise shoved through the ropes by his opponent), the referee will begin counting the fallen contestant as though he has been knocked out in the ring.

(1) In this instance, the fallen contestant's seconds will not be allowed to assist him back into the ring.

(2) Once standing on the ring platform outside the ropes, the contestant must enter the ring immediately where he may either resume the bout or the referee may finish the count.

F. Other contestant to neutral corner: When a contestant has fallen over or through the ropes, the other contestant shall retire to the farthest neutral corner of the ring and stay there until instructed to continue the bout by the referee.
[15.6.12.29 NMAC - N, 03-23-2002; A, 02-13-2015]

15.6.12.30 THREE (3) -KNOCKDOWN RULE:

A. Amateur or professional contests: In any amateur or professional contest, the "three (3) knockdown rule" will be in effect.

B. In all contests: In all contests, the standing eight (8)-count will be considered a knockdown under this "three (3) knockdown rule".

(1) Should any contestant be knocked down or receive a standing eight (8)-count three (3) times during the course of a round, he will be considered knocked out.

(2) The referee will automatically terminate the bout and award the victory to the opponent by knockout or technical knockout.

C. National, continental and world title contests: In national, continental, and world title contests, this rule is automatically waived and contests will be stopped at the discretion of the referees.

[15.6.12.30 NMAC - N, 03-23-2002; A, 02-13-2015]

15.6.12.31 [CHANGE-OF-DECISION:

A. Reasons Decisions May Be Changed: A decision rendered at the termination of any bout is final and cannot be changed unless the commission determines that any one of the following situations has occurred:

~~(1) Collusion:~~ That there was collusion affecting the results of any

bout:

~~(2) Scoring error:~~ That an error occurred in the compilation of the judges scorecards that would indicate that the official decision had been awarded to the wrong contestant.

~~(3) Violation of rules and regulations:~~ That there was a clear violation of the rules and regulations governing the sanctioning of martial arts bouts that affected the result of the bout.

B. Commission's power to change decision: If the commission determines that any of the situations listed under Section A of this rule has occurred with regard to any bout, then the decision rendered shall be changed as the commission directs. **[RESERVED]**
[15.6.12.31 NMAC - N, 03-23-2002; Repealed, 02-13-2015]

15.6.12.34 FAILURE TO RESUME THE CONTEST:

A. Leaving the ring prohibited: Contestants are prohibited from leaving the ring during the one (1)-minute rest period between rounds.

B. Failure to resume contest at the bell: Should a contestant not come out of his corner when the bell sounds at the commencement of a round, the referee will begin counting as though the contestant were knocked down; and the scoring judges will consider the situation as an actual knockdown when scoring the round.

C. Technical knockout awarded: Should a contestant fail or refuse to resume fighting at the conclusion of the round, the referee will award a technical knockout to his opponent.

(1) Unless the circumstances indicate to the referee the need for an investigation or disciplinary action.

(2) In which case, the referee will not make a decision, and will order the purse or purses of either or both contestants withheld.

[15.6.12.34 NMAC - N, 03-23-2002; A, 02-13-2015]

15.6.12.36 REFEREE'S AND PHYSICIAN'S POWER TO STOP THE CONTEST:

A. Referee's power to render a decision: The referee shall have the power to stop the contest at any stage, including during the rest periods, and render a decision:

(1) If he considers the match too one (1)-sided; or

(2) If either contestant is in such condition that to continue the match might subject him to serious injury

B. Referee's power to

call a technical draw: The referee will declare the match a technical draw should both contestants be in such condition that to continue the match might subject them to serious injury.

C. Referee's power to call for an examination: In cases where a contestant receives a cut eye from a fair blow or [and] accidental foul, or any other injury that the referee believes may incapacitate the contestant, the referee may call the ringside physician into the ring for examination of the contestant before he decides to stop the contest. Time will be called while the physician conducts the examination.

D. Ringside physician's powers: The ringside physician shall have the power to enter the ring to ascertain the extent of any injury he believes may have occurred, or any serious injury he believes may be suffered by a contestant, whether or not he is summoned by the referee.

(1) The physician shall notice his desire to enter the ring by instructing the commission's representative to have the bell rung.

(2) If the bell is ordered to be rung mid-round, it shall be a signal to the referee to temporarily stop the contest to allow the physician to conduct his examination of the contestant.

(3) Time will be called while the physician conducts the examination.

E. Both have power to terminate the contest: Either the referee or the ringside physician shall have the power to terminate the contest. Should the physician request termination for medical reasons, the referee will automatically terminate the contest.

F. Referee has sole power to render a decision: In the event the contest is terminated, the referee shall have the sole power to render a decision.

[15.6.12.36 NMAC - N, 03-23-2002; A, 02-13-2015]

NEW MEXICO REGULATION AND LICENSING DEPARTMENT ATHLETIC COMMISSION

This is an amendment to 15.6.15 NMAC, Section 2, effective 02-13-2015.

15.6.15.2 SCOPE: [The provisions in Part 15 apply to all professional events contestants licensed by the commission.] The provisions in Part 15 apply to all licensees of the commission.
[15.6.15.2 NMAC - N, 03-23-2002; A, 02-13-2015]

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
BOARD OF CHIROPRACTIC
EXAMINERS**

This is an amendment to 16.4.15 NMAC, Section 7 and 8 effective 2-13-2015.

16.4.15.7 DEFINITIONS:

A. "Chiropractic" means the science, art and philosophy of things natural, the science of locating and removing interference with the transmissions or expression of nerve forces in the human body by the correction of misalignments or subluxations of the articulations and adjacent structures, more especially those of the vertebral column and pelvis, for the purpose of restoring and maintaining health for treatment of human disease primarily by, but not limited to, adjustment and manipulation of the human structure. It shall include, but not be limited to, the prescription and administration of all natural agents in all forms to assist in the healing act, such as food, water, heat, light, cold, electricity, mechanical appliances, herbs, nutritional supplements, homeopathic remedies and any necessary diagnostic procedure, excluding invasive procedures, except as provided by the board by rule and regulation. It shall exclude operative surgery and prescription or use of controlled or dangerous drugs, except as provided by the board by rule and regulation.

B. "Certified advanced practice chiropractic physician" means advanced practice chiropractor who shall have prescriptive authority for therapeutic and diagnostic purposes as authorized by statute and stated by the board in 16.4.15.11 NMAC.

C. "Chiropractic physician" includes doctor of chiropractic, chiropractor, doctor of chiropractic medicine and chiropractic physician and means a person who practices chiropractic as defined in the Chiropractic Physician Practice Act. Chiropractors are physicians that attempt to improve the quality of life, relieve pain and suffering and promote health and wellness with evidence-based and patient centered care as taught in their chiropractic educational institutions. The chiropractic profession, through its institutions, professional associations, continuing educational providers and requirements teaches its health care professionals to use natural treatments, therapeutic interventions and patient education to promote health and wellness when indicated by the evidence and with other interventions as taught within chiropractic educational institutions and

providers of approved continuing education instruction when necessary to safely treat individuals with disease, deformity, disability and neuromusculoskeletal maladies.

D. "Nationally recognized credentialing agency" means agency that has been recognized by the board and may be updated annually. Any educational institution allowed to provide clinical and didactic programs credited toward advanced practice certification must have concurrent approval from the New Mexico medical board and the New Mexico board of chiropractic examiners.

E. "Chiropractic formulary" shall mean those substances that have been approved for use by the chiropractor registered in advanced practice by the chiropractic board and as by statute with consensus between the New Mexico medical board and New Mexico board of pharmacy.

[16.4.15.7 NMAC - N, 3/31/2009; A, 7/23/2010; A, 1/30/15; A, 2/13/2015]

**16.4.15.8 ADVANCED
PRACTICE REGISTRATION**

GENERAL PROVISIONS: Advanced practice registration is authorized by 61-4-9.1(C) NMSA of the act and defined in 61-4-9.2 NMSA 1978 and allows the use of approved substances through injection for therapeutic purposes.

A. A chiropractic physician shall have the prescriptive authority to administer through injection and prescribe the compounding of substances that are authorized in the advanced practice formulary. Those with active registration are allowed prescription authority that is limited to the current formulary as agreed on by the New Mexico board of chiropractic examiners and as by statute, by the New Mexico board of pharmacy and the New Mexico medical board. The New Mexico board of chiropractic examiners shall maintain a registry of all chiropractic physicians who are registered in advanced practice and shall notify the New Mexico board of pharmacy of all such current registered licensees no later than September 1st of each licensing period.

B. Chiropractic physicians applying for registry shall submit to the board:

(1) documentation that the doctor has successfully completed a competency examination administered by a nationally recognized credentialing agency or after December 31, 2012 successfully completed a graduate degree in a chiropractic clinical practice specialty;

(2) documentation that the chiropractic physician has successfully completed 90

clinical and didactic hours of education provided by an institution approved by the New Mexico medical board and the New Mexico board of chiropractic examiners;

(3) an application provided by the board for registry of the advanced practice certification.

C. A chiropractic physician without advanced practice certification may administer, dispense and prescribe any natural substance that is to be used in an oral or topical manner so long as that substance is not considered a dangerous drug.

D. The board shall annually renew the registration of a doctor of chiropractic medicine in good standing who is registered in advanced practice if the licensee has completed all continuing education required by 16.4.10 NMAC.

E. All advanced practice registrations shall automatically terminate when licensure as a doctor of chiropractic medicine:

(1) is placed permissive temporary cancellation as stated in Paragraph (2) of Subsection A of 16.4.12.8 NMAC; or

(2) expires as stated in 16.4.13.8 NMAC; or

(3) is suspended, revoked or terminated for any reason as stated in 16.4.13.8 NMAC;

(4) is not renewed prior to the annual renewal date (July 1).

F. An advanced practice registration that is revoked or terminated shall not be reinstated. The chiropractic physician must reapply for expanded practice certification as a new applicant.

G. All advanced practice registrations that were automatically terminated due to inactive status, expiration or suspension as stated in 16.4.13.8 NMAC shall be automatically reinstated when licensure as a chiropractic physician is reinstated, provided that:

(1) all fees required by 16.4.1.13 NMAC have been paid; and

(2) all continuing education requirements stated in Subsection C of 16.4.15.10 NMAC have been completed; and

(3) any other reinstatement provisions, required by board rule, have been completed.

H. Each year the board may review the advanced practice formularies for necessary amendments. When new substances are added to a formulary, appropriate education in the use of the new substances may be approved and required by the board for chiropractic physician applying for registration or as continuing education for renewal of the

applicable advanced practice registration. All amendments to the formulary shall be made following consensus of the NM board of medicine, NM pharmacy board and the NM board of chiropractic examiners.

I. A chiropractic physician certified for advanced practice under 16.4.15.11 NMAC that includes the use of controlled substances shall register with the federal DEA (drug enforcement agency) prior to obtaining, prescribing, administering, compounding the controlled substance.

J. A chiropractic physician registered in advanced practice, when prescribing, shall use prescription pads printed with his or her name, address, telephone number, license number and his or her advanced practice certification. If a chiropractic physician is using a prescription pad printed with the names of more than one chiropractic physician the above information for each chiropractic physician shall be on the pad and the pad shall have a separate signature line for each chiropractic physician. Each specific prescription shall indicate the name of the chiropractic physician for that prescription and shall be signed by the prescribing chiropractic physician.

[16.4.15.8 NMAC - N, 3/31/2009; A, 7/23/2010; A, 1/30/15; A, 2/13/2015]

NEW MEXICO REGULATION AND LICENSING DEPARTMENT BOARD OF OCCUPATIONAL THERAPY

This is an amendment to 16.15.2 NMAC, Section 19, effective 02/13/2015.

~~16.15.2.19~~ ~~EXPEDITED~~ ~~LICENSURE FOR MILITARY~~ ~~SERVICE MEMBERS, SPOUSES AND~~ ~~VETERANS~~

~~[~~ ~~A.~~ ~~Application~~
~~Requirements:~~

~~(1) Applications~~
~~for registration shall be completed on a~~
~~form (electronic or hard copy) provided by~~
~~the department:~~

~~(2) The~~
~~information shall include:~~

~~(a)~~
~~completed application and fee;~~

~~(b)~~
~~satisfactory evidence that the applicant~~
~~holds a license that is current and in good~~
~~standing, issued by another jurisdiction,~~
~~including a branch of armed forces of the~~
~~United States, that has met the minimal~~
~~licensing requirements that are substantially~~
~~equivalent to the licensing requirements for~~
~~the occupational or professional license the~~

~~applicant applies for pursuant to Chapter~~
~~61, Articles 2 through 34 NMSA 1978;~~

~~(c)~~
~~proof of honorable discharge (DD214)~~
~~or military identification card or proof of~~
~~marriage for spousal status:~~

~~(3) Electronic~~
~~signatures will be acceptable for~~
~~applications submitted pursuant to section~~
~~14-16-1 through 14-16-21 NMSA 1978.]~~

~~16.15.2.19~~ ~~EXPEDITED~~ ~~LICENSURE FOR MILITARY~~ ~~SERVICE MEMBERS, SPOUSES AND~~ ~~VETERANS: Application Requirements.~~

~~A.~~ ~~Applications for~~
~~registration shall be completed on a form~~
~~(electronic or hard copy) provided by the~~
~~department.~~

~~B.~~ ~~The information shall~~
~~include:~~

~~(1) completed~~
~~application and fee;~~

~~(2) satisfactory~~
~~evidence that the applicant holds a license~~
~~that is current and in good standing, issued~~
~~by another jurisdiction, including a branch~~
~~of armed forces of the United States, that~~
~~has met the minimal licensing requirements~~
~~that are substantially equivalent to the~~
~~licensing requirements for the occupational~~
~~or professional license the applicant applies~~
~~for pursuant to Chapter 61, Articles 2~~
~~through 34 NMSA 1978;~~

~~(3) proof of~~
~~honorable discharge (DD214) or military~~
~~identification card or proof of marriage for~~
~~spousal status.~~

~~C.~~ ~~Electronic signatures~~
~~will be acceptable for applications~~
~~submitted pursuant to Sections 14-16-1~~
~~through 14-16-21 NMSA 1978.~~

[16.15.2.19 NMAC - N, 01/30/2015; A,
02/13/2015]

End of Adopted Rules Section

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Other Material Related to Administrative Law

**NEW MEXICO HUMAN
SERVICES DEPARTMENT
INCOME SUPPORT DIVISION****NOTICE OF REPEAL**

The Human Services Department - Income Support Division is repealing Sections 12 and 14 of 8.139.410 NMAC, filed on 10/01/2014, effective 2/13/2015. This action is being taken due to a court order issued by the First Judicial District, County of Santa Fe, on November 6, 2014.

The court ordered that:

“The E&T and ABAWD work requirements as published in the Human Services Register Vol. 37, No. 57 and in the New Mexico Register Vol. XXV, No. 18 published on September 30, 2014 are invalid due to this Court’s finding of insufficient notice and failure to make a state plan public. As such, they will not be enforced and will be repealed.”

**End of Other Related Material
Section**

New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXVI

2015

Volume XXVI	Submittal Deadline	Publication Date
Issue Number 1	January 2	January 15
Issue Number 2	January 16	January 30
Issue Number 3	February 2	February 13
Issue Number 4	February 16	February 27
Issue Number 5	March 2	March 16
Issue Number 6	March 17	March 31
Issue Number 7	April 1	April 16
Issue Number 8	April 17	April 30
Issue Number 9	May 1	May 14
Issue Number 10	May 15	May 29
Issue Number 11	June 1	June 16
Issue Number 12	June 17	June 30
Issue Number 13	July 1	July 15
Issue Number 14	July 16	July 30
Issue Number 15	July 31	August 14
Issue Number 16	August 17	August 28
Issue Number 17	August 31	September 15
Issue Number 18	September 16	September 29
Issue Number 19	September 30	October 15
Issue Number 20	October 16	October 29
Issue Number 21	October 30	November 16
Issue Number 22	November 17	November 30
Issue Number 23	December 1	December 15
Issue Number 24	December 16	December 30

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rulemaking, proposed rules, adopted rules, emergency rules, and other material related to administrative law. The Commission of Public Records, Administrative Law Division, publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978.

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