

This rule was filed as GSD 94-201

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 5 PUBLIC PROPERTY MANAGEMENT
PART 5 AVIATION SERVICES BUREAU AIRCRAFT USE REGULATIONS

1.5.5.1 ISSUING AGENCY: General Services Department - Transportation Services Division.
[7/1/94; Recompiled 11/30/01]

1.5.5.2 SCOPE: This rule governs the use of all state-owned passenger aircraft operated by the general services department.
[7/1/94; Recompiled 11/30/01]

1.5.5.3 STATUTORY AUTHORITY: Chapter 135, Laws of 1994, Section 3.B.(1) through (7); Section 3.C.; and Section 4.
[7/1/94; Recompiled 11/30/01]

1.5.5.4 DURATION: [Permanent]
[Recompiled 11/30/01]

1.5.5.5 EFFECTIVE DATE: July 1, 1994 [unless a later date is cited at the end of a section].
[7/1/94; Recompiled 11/30/01]

1.5.5.6 OBJECTIVE: The purpose of this rule is to regulate the use of state passenger aircraft and to ensure their efficient and cost effective use.
[7/1/94; Recompiled 11/30/01]

1.5.5.7 DEFINITIONS:

A. “Transportation services division” - refers to the division of the general services department created by Section 4 of Chapter 119, Laws of 1994.

B. “Crew” - refers to any passenger who has any officially assigned duties involved in the operation of the aircraft. Crew members include, but are not limited to: pilot, co-pilot, check pilot, flight examiner, FAA designated flight examiner, flight instructor, flight engineer, navigator, mechanic, flight attendant or load-master.

C. “Coverage” - refers to the liability, hull, and medical insurance on state aircraft.

D. “Director” - refers to the director of the transportation services division of the general services department.

E. “Duties” - as defined in the Tort Claims Act means performing any official duties which a public employee is requested, required or authorized to perform by the governmental entity regardless of the time and place of performance.

F. “Emergency” - a condition which creates a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, equipment failures, or similar events.

G. “F.A.A.” - means the federal aviation administration or its counterpart in a foreign country having jurisdiction over civil aviation.

H. “Federal aviation regulations” - means the body of regulations governing civil aviation in the United States or the equivalent body of regulations governing civil aviation in a foreign country.

I. “Fleet” - means the aircraft operated by the general services department.

J. “Fleet average cost” - is the average hourly cost of operating the fleet. It is determined by combining all variable and fixed costs associated with the fleet in a fiscal year and dividing the total by the total number of aircraft hours flown in that fiscal year.

K. “Passenger” - refers to any authorized person or persons, including crew, while in, or entering a state aircraft for the purpose of riding or flying therein, or exiting the aircraft during or following a flight or attempted flight.

L. “Authorized persons” - refers to the following classes of persons:

- (1) elected or appointed state government officials;
- (2) law enforcement officers;

- (3) persons acting on behalf of or in service of a state governmental entity in any official capacity, whether with or without compensation;
 - (4) persons in the custody or care of the state; and
 - (5) licensed foster parents providing care for children in the custody of the state.
 - M. "Secretary" - refers to the cabinet secretary of the general services department.
 - N. "State agency" - refers to the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities or institutions.
 - O. "State aircraft" - means any state-owned aircraft used primarily to transport passengers.
- [7/1/94; Recompiled 11/30/01]

1.5.5.8 USE OF STATE-OWNED AIRCRAFT:

- A. For official use only. State aircraft shall be used only for official purposes and in the most cost effective manner practicable.
 - B. By authorized persons only. Only authorized persons may be transported on state aircraft. The state assumes no liability for any passenger who is not an authorized person as defined in Section 4.12 of this rule [now Subsection L of 1.5.5.7 NMAC].
 - C. Use guidelines. The following guidelines shall be applied to determine whether a state aircraft shall be scheduled for a proposed trip by a governmental agency, board, or commission:
 - (1) Cost effectiveness. The user agency and the aviation services bureau shall consider the cost of the flight, location, time required to accomplish mission, cost of alternative transportation, and cost of users' time.
 - (2) Occupancy. A minimum of three official passengers shall be on any flight unless appropriate written justification is submitted to and approved by the secretary.
 - (3) Emergencies. The secretary or the secretary's designee shall have the authority to waive cost-effectiveness or occupancy guidelines in emergencies when failure to use state aircraft would threaten:
 - (a) the functioning of government;
 - (b) the preservation or protection of property; or
 - (c) the health or safety of any person.
 - (4) Permitted areas of use. State aircraft shall be flown only within the territory specified in the state's insurance coverage. Questions should be referred to the risk management division of the general services department.
- [7/1/94; Recompiled 11/30/01]

1.5.5.9 SCHEDULING OF STATE AIRCRAFT:

- A. Role of aircraft control center.
 - (1) Authority: Pursuant to Section 15-3-31 NMSA 1978, the department maintains an aircraft control center.
 - (2) Statutory duties: The aircraft control center shall maintain records of all flights made by state aircraft including a preflight report of anticipated time of departure and arrival for each flight, name of the pilot and each passenger, the destination and intermediate stops, and a post-flight report of actual departure and arrival times.
- B. Governor and elected officials: The governor and other state elected officials of the state of New Mexico shall have priority in the use of state aircraft. Except for the governor, who shall have bumping rights on all scheduled flights, elected officials shall be scheduled on a first-come, first-served basis.
- C. Other state officials and employees: Non-elected state employees, officers, and board members shall be scheduled on a first-come, first-served basis except in cases involving emergencies or as provided in Section 6.3 [now Subsection D of 1.5.5.9 NMAC], below. The secretary shall determine the validity of emergency requests.
- D. Aircraft with special equipment: The aerial photo unit of the state highway and transportation department shall have first priority, including bumping rights, for the scheduling of any aircraft specially equipped for aerial photography.
- E. Timeliness of scheduling: All flight requests shall be scheduled as far in advance as possible.
- F. Training and maintenance: The chief pilot shall schedule pilot leave and training, as well as normal aircraft maintenance, as far in advance as possible. Scheduled periods of aircraft non-availability will be entered on the scheduling system at the time they are scheduled.
- G. Right to Refuse Scheduling: The secretary may refuse any request to schedule a state aircraft as provided under Section 3.C. of Chapter 135, Laws of 1994.

H. Prerogatives of Pilot in Command: Any pilot in command of a state aircraft may refuse to fly a scheduled trip if, in his or her opinion, conducting such a flight creates an unsafe condition inconsistent with his or her responsibilities as pilot in command under Part 91 of the federal aviation regulations.

[7/1/94; Recompiled 11/30/01]

[Compiler's note: Subsection C, above, contains a reference to *Section 6.3 below*, which appears to be in error since that is the same section. The correct citation most likely is 6.4, now Subsection D.]

1.5.5.10 RESPONSIBILITIES OF USER AGENCIES AND EMPLOYEES:

A. Ground transportation: Users shall arrange for their own ground transportation to and from the airport.

B. Boarding requirements: Any passenger scheduled on a flight should be at the airport for check-in at least fifteen minutes prior to departure. If a passenger misses a flight, the passenger's agency will be charged its share of the trip whether flown or not.

C. Courier or package service: Any agency requesting courier service to assist in the conduct of official business (specifically, items which are not under the responsibility of an employee of that agency on the same flight) will be responsible for delivery to and loading of the item at the destination airport. The size and weight of the item must be cleared with the pilot in command of the flight at the time the service is scheduled.

[7/1/94; Recompiled 11/30/01]

1.5.5.11 CONDUCT OF PASSENGERS:

A. Smoking: Smoking in, or within 50 feet of, state aircraft is prohibited.

B. Alcohol: Consumption of alcoholic beverages in state aircraft is prohibited.

C. Seat belts: Passengers shall wear seat belts at all times while seated in state aircraft.

D. Conduct of passengers: A passenger whose behavior, in the opinion of the pilot in command of a flight, constitutes a detriment to the safe conduct of the flight, shall be denied permission to board the aircraft and shall be subject to charge for his or her proportionate share of the trip's cost.

[7/1/94; Recompiled 11/30/01]

1.5.5.12 REPORTING OF FLIGHTS: All flight reports shall be filed with the secretary or the secretary's designee and the aircraft control center within 48 hours of completion.

[7/1/94; Recompiled 11/30/01]

1.5.5.13 APPEAL OF CHARGES:

A. Charges for trips not flown: Charges for aircraft use assessed to an agency under the operation of Section 8.2 or Section 9.4 [now Subsection B of 1.5.5.10 NMAC or Subsection D of 1.5.5.11 NMAC], above, may be appealed in writing to the secretary, who shall render a decision as to the appropriateness of the charges within 30 days of receipt of the appeal.

B. Disputed charges: All other disputed charges for aircraft services may be appealed to the secretary or the secretary's designee in writing within thirty days of the invoice or statement, whichever is later. The secretary or the secretary's designee shall render a decision as to the appropriateness of the charges within 30 days of receipt of the appeal. Amounts not expressly under appeal shall be deemed payable within 30 days of the statement date.

[7/1/94; Recompiled 11/30/01]

1.5.5.14 RATES:

A. Establishment of rates: The aviation services bureau shall be responsible for the establishment of prospective hourly rates and other associated use charges for state passenger aircraft on or before July 1 of each year. Rates shall be promulgated by memorandum.

B. Included costs: Rates shall be sufficient to offset the estimated costs of operation, maintenance, and depreciation of state aircraft.

C. Equalization of rates: Rates shall be established based on fleet average cost.

D. Retroactive adjustment of rates: On June 30, 1995 and each year thereafter, the aviation services bureau shall compute an actual fleet average cost for fleet operations during that fiscal year. In the event revenues from use of state aircraft exceed the actual fleet cost, the bureau shall issue each user agency a credit equal to the difference between the prospective hourly rate and the actual fleet average cost for its use in that fiscal year. Such

credits shall be redeemable by June 30 of the following year only for aircraft use. Unused credits shall be extinguished on that date.

[7/1/94; Recompiled 11/30/01]

HISTORY OF 1.5.5 NMAC:

Pre-NMAC History: The material in this part is derived from that previously filed with the Commission of Public Records - State Records Center and Archives as:

DFA 67-7, Central Aircraft Schedule, filed 9/11/67.

GSD 84-201, State Aircraft Scheduling and Reporting, filed 4/4/84.

GSD 93-201, State Owned Aircraft Regulations, filed 6/23/93.

GSD 94-201, Aviation Services Bureau Aircraft Use Regulations, filed 8/9/94.

History of Repealed Material:

GSD Rule No 94-201, Paragraph 12.5, Fiscal 1995 Use Credits to Relinquishing Agencies, temporary provision expired 6/30/95.