

**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, 2/13/2015]

**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, 2/13/2015]

**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, 2/13/2015]

**18.3.1.4           DURATION:** Permanent.  
[18.3.1.4 NMAC - Rp, 18.3.1.4 NMAC, 2/13/2015]

**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, 2/13/2015]

**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, 2/13/2015]

**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 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.     small passenger vehicle** means a passenger vehicle used by a passenger service other than an ambulance service, with a carriage capacity of eight or fewer persons including the driver, and is typically a sedan, SUV or minivan; provided that small passenger vehicle does not include a truck primarily designed to carry property, a stretcher van, wheelchair van, or other vehicle used in non-emergency medical transport service, or an ambulance;

**M. 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;

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

**O. 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;

**P. 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, 2/13/2015; A, 11/30/2016]

#### **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, 2/13/2015]

#### **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, 2/13/2015]

#### **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, 2/13/2015]

#### **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, 2/13/2015]

**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](http://www.nmprc.state.nm.us).

**C. Photocopies permitted.** The commission will accept filings made on photocopies of director-prescribed forms, provided they are legible.

[18.3.1.12 NMAC - Rp, 18.3.1.13 NMAC, 2/13/2015]

**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, 2/13/2015]

**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, 2/13/2015]

**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, 2/13/2015]

**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, 2/13/2015]

**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, 2/13/2015]

**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, 2/13/2015]

#### **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 2/13/2015.