

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, 2/13/2015]

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, 2/13/2015]

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, 2/13/2015]

18.3.2.4 DURATION: Permanent.
[18.3.2.4 NMAC - Rp, 18.3.2.4 NMAC, 2/13/2015]

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, 2/13/2015]

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, 2/13/2015]

18.3.2.7 DEFINITIONS: See 18.3.1.7 NMAC.
[18.3.2.7 NMAC - Rp, 18.3.2.7 NMAC, 2/13/2015]

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; or
(4) 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, 2/13/2015; A, 01/30/2018]

18.3.2.9 LIMITATIONS ON PASSENGER SERVICES:

A. General shuttle services. A general shuttle service:
(1) may not provide municipal or general taxicab services, ambulance 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, except as permitted by Subsection D of Section 65-2A-15 NMSA 1978;

(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. 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.

D. 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.

E. 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.

F. 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 metered rates based on one charge for the first person and an additional small fixed charge for each additional person, or may charge, at the passenger's informed option, a predetermined calculated full fare based on dropflag and mileage component rates as provided by tariff, and may use surge pricing as provided by tariff;

(3) shall grant exclusive direction to the first person engaging the taxicab service for metered carriage;

(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 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.

G. 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 metered rates based on one charge for the first person and an additional small fixed charge for each additional person, or may charge, at the passenger's option, a predetermined calculated full fare based on dropflag and mileage component rates as provided by tariff, and may use surge pricing as provided by tariff;

(3) shall grant exclusive direction to the first person engaging the taxicab service for metered carriage;

(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.

H. 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, 2/13/2015; A, 11/30/2016; A, 01/30/2018]

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.** each and all of the applicant's doing business as (d/b/a) names, if applicable;
- D.** the applicant's principal place of business within the state of New Mexico and mailing address, and, for a towing service, the mailing and physical address of the storage facility and office, if different from those of the principal place of business;
- 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 or limited liability company, 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 standing in New Mexico;
- I.** 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;
- J.** an appointment of an agent for service of process;
- K.** 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;
- L.** 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;
- M.** a list of drivers and drivers license information for each driver including state of issuance, license number, and class of license; a legible copy of each driver's license; a legible copy of each driver's motor vehicle record received from the driver licensing agency of the state or states within which the driver is licensed; and a legible copy of each driver's medical examiner's certificate as required by 49 CFR 391.43(g);
- N.** 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;
- O.** the applicant's U.S. DOT safety rating, if it has one;
- P.** proof of public liability insurance in accordance with 18.3.3 NMAC - Financial Responsibility;
- Q.** 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;
- R.** a copy of either a certificate of workers' compensation insurance or a certificate of exemption from the workers' compensation administration;
- S.** 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;
- T.** a copy of the applicant's written preventive maintenance program for its motor vehicles as required by 18.3.4.11 NMAC;
- U.** a contact person, telephone number and email address for the commission to use in the event of a question, inquiry or complaint;
- V.** the verified oath of the applicant pursuant to Subsection MMM of Section 65-2A-3 NMSA 1978 attesting that all statements in the application are true and correct;
- W.** the application fee required by Section 65-2A-36 NMSA 1978; and

X. a statement disclosing any other operating authority(ies) owned or operated by the applicant including any partial interest in any other operating authority(ies), and certifying that the operating authority sought in the application does not duplicate the operating authority of the same kind and for the same territory already held by the motor carrier.

[18.3.2.10 NMAC - Rp, 18.3.2.11 NMAC, 2/13/2015; A, 3/14/2017 A, 01/30/2018]

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 2/13/2015]

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, 2/13/2015]

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 ten percent 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, 2/13/2015]

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, 2/13/2015]

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, 2/13/2015]

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, 2/13/2015]

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, 2/13/2015]

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, 2/13/2015]

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, 2/13/2015]

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, 2/13/2015]

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

A. Rates to be posted in vehicles. A taxicab service shall post the rates for metered transportation services in the passenger compartment of the vehicle in a place and manner that is readily accessible and viewable by passengers. A 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, 2/13/2015; A, 11/30/2016]

18.3.2.22 ADDITIONAL REQUIREMENT FOR TAXICAB SERVICES: Unless expressly requested to do otherwise, a taxicab service shall transport metered-fare passengers over the shortest available route. A predetermined calculated full fare shall be calculated on the basis of the shortest available route.

[18.3.2.22 NMAC - Rp, 18.3.2.26 NMAC, 2/13/2015; A, 11/30/2016]

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, 2/13/2015]

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, 2/13/2015]

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 or for amendment 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, 2/13/2015]

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. In determining whether the size of the fleet deployed by a full-service transportation service meets the requirements for continuous and adequate service, the commission shall consider competition and the availability of other transportation and the effects of competition by both competing transportation services and competing transportation network company services on the public need, volume of demand and expense of providing full service in the full-service territory.

[18.3.2.26 NMAC - Rp, 18.3.2.30 NMAC, 2/13/2015; A, 11/30/2016]

HISTORY OF 18.3.2 NMAC:

Pre-NMAC History: The material in this rule was previously filed with the state records center as:
SCC 68-16, N.M. Motor Carrier Act, Rules and Regulations, effective Sept. 1, 1967, filed on 3/14/1968;
SCC 71-6, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1971, filed on 9/21/1971;
SCC 73-1, N.M. Motor Carrier Act, Rules and Regulations, filed on 6/14/1973;
SCC 74-1, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1973, filed on 2/5/1974;
SCC 75-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1975, filed on 4/17/1975;
SCC 75-3, N.M. Motor Carrier Act, Rules and Regulations (Rev.), effective Jan. 1, 1975, filed on 9/19/1975;
SCC 76-1, N.M. Motor Carrier Act, Rules and Regulations, effective April 1, 1976, filed on 4/15/1976;
SCC 77-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1977, filed on 1/25/1977;
SCCMC Rule No. 4, Application for Certificates and Permits, filed on 3/5/1982;
SCCMC Rule No. 25, Pet Animals, filed on 3/5/1982;
SCCMC Rule No. 27, Bus Express, filed on 3/5/1982;
SCCMC Rule No. 32, Continuous and Adequate Service, filed on 3/5/1982;
SCCMC Rule No. 33, Business-Like Operations, filed on 3/5/1982;
SCCMC Rule No. 43, Hearing on Application-Public Notice, filed on 3/5/1982;
SCC Rule 207, Emergency Rule Governing Motor Carriers of Property, filed on 1/5/1993;
SCC Rule 211, General Operating Authority Provisions, filed on 1/5/1993;
SCC Rule 212, Certificates of Public Convenience and Necessity for Common Motor Carriers, filed on 1/5/1993;
SCC Rule 213, Permits for Contract Motor Carriers, filed on 1/5/1993;
SCC Rule 214, Warrants for Limited Operating Authority, filed on 1/5/1993;
SCC Rule 216, Licenses for Transportation Brokers, filed on 1/5/1993;
SCC Rule 217, Emergency and Temporary Authority, filed on 1/5/1993;
SCC Rule 221, Tariffs, Rates and Schedules, filed on 1/5/1993;
SCC Rule 231, General Compliance Requirements, filed on 1/5/1993;
SCC Rule 251, Motor Carriers of Persons-General Provisions, filed on 1/5/1993;
SCC Rule 261, Motor Carriers of Property-General Provisions, filed on 1/5/1993;
SCC Rule 273, Administrative Enforcement Proceedings, filed on 1/5/1993.

History of Repealed Material:

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

Other History:

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