

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, 2/13/2015]

18.3.4.2 SCOPE:

A. This rule applies to all drivers, all motor carriers subject to the jurisdiction of the commission, and all motor vehicles operated by the motor carrier 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, 2/13/2015; A, 01/30/2018]

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, 2/13/2015]

18.3.4.4 DURATION: Permanent.

[18.3.4.4 NMAC - Rp, 18.3.4.4 NMAC, 2/13/2015]

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, 2/13/2015]

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 subject to the jurisdiction of the commission.

[18.3.4.6 NMAC - Rp, 18.3.4.6 NMAC, 2/13/2015; A, 01/30/2018]

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;

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, 2/13/2015; A, 01/30/2018]

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, 2/13/2015]

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, 2/13/2015]

18.3.4.10 REQUIREMENTS APPLICABLE TO ALL DRIVERS:

A. Drug and alcohol testing:

(1) For drivers of small passenger vehicles.

(a) A transportation service shall implement and enforce a zero-tolerance policy regarding drug and alcohol use by transportation service drivers. The zero-tolerance policy shall prohibit any use or impairment due to intoxicating drugs or liquor while a transportation service driver is driving.

(b) A transportation service shall publish on its website notice of its zero-tolerance policy, as well as procedures for a rider to report a complaint about a driver suspected to have been under the influence of illegal drugs or alcohol during a ride.

(c) A transportation service shall immediately conduct an investigation into every reported complaint of violation of its zero-tolerance policy, and the policy shall include procedures for suspension or termination of transportation service drivers.

(d) A transportation service shall maintain records relevant to the enforcement of the requirements of this section for a period of at least four years from the date that a rider complaint is received by the transportation service.

(e) Passenger services may voluntarily adopt and implement more stringent policies and procedures for drivers of small passenger vehicles, including full or modified forms of federal drug and alcohol testing.

(2) Procedures for transportation workplace drug and alcohol testing programs for drivers other than drivers of small passenger vehicles. This rule adopts by reference title 49, part 40 of the code of federal regulations in its entirety.

(3) Controlled substances and alcohol use and testing for drivers other than drivers of small passenger vehicles. 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:

(1) drivers of small passenger vehicles; a driver shall not drive the service vehicle for more than 12 hours out of any 24 hour period;

(2) all other drivers: this rule adopts by reference 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, 2/13/2015; A, 11/30/2016]

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, 2/13/2015]

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, investigations, inquiries, reporting, records, driving, equipment, inspection repair and maintenance by and for small passenger vehicles and drivers of small passenger vehicles.

- (1) Before allowing a transportation service driver to provide carriage:
 - (a) the prospective driver shall submit an application to the transportation service that includes the individual's address, age, driver's license number and state, and driving history;
 - (b) the transportation service shall obtain a local and national criminal background check for the prospective driver that shall include:
 - (i) multistate or multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation and primary source search; and
 - (ii) a national sex offender registry; and
 - (iii) the transportation service shall obtain and review a driving history research report for the prospective driver.
- (2) A transportation service shall not permit a person to act as a transportation service driver who:
 - (a) has had more than three moving violations in the preceding three-year period or one violation in the preceding three-year period involving any attempt to evade law enforcement, reckless driving or driving on a suspended or revoked license;
 - (b) has been convicted within the past seven years of:
 - (i) a felony;
 - (ii) misdemeanor driving under the influence, reckless driving, leaving the scene of an accident or any other driving-related offense or any misdemeanor violent offense or sexual offense; or
 - (c) more than three misdemeanors of any kind;
 - (d) is identified by a national sex offender registry;
 - (e) does not possess a valid license; or
 - (f) is not at least 21 years old.
- (3) A transportation service shall not use a small passenger vehicle that:
 - (a) is not in compliance with all federal, state and local laws concerning the operation and maintenance of the motor vehicle;
 - (b) has fewer than four doors; or
 - (c) is designed to carry more than eight passengers, including the driver.
- (4) A transportation service shall inspect or cause to be inspected every motor vehicle used by a driver to provide transportation services before allowing the driver to use the motor vehicle to provide transportation services and not less than once each year thereafter. The type of inspection required shall follow the Commission rules for annual inspections for transportation network company service driver vehicles promulgated as 18.17.1.8 NMAC.
- (5) Provided that passenger services may voluntarily adopt and implement other more stringent policies and procedures for small passenger vehicles and drivers of small passenger vehicles, including full or modified forms of federal safety policies and procedures.

C. Qualifications of drivers other than drivers of small passenger vehicles. 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) "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);
 - (b) 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 are exempt from section 391.41(a);

(9) **medical examinations; certificate of physical examination:** Section 391.43, except that for volunteer drivers of ambulance services only, the medical examiner (as defined in 49 CFR Section 390.5) 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.

(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 subsections 391.51(b)(8) and (d)(5) are not adopted;

(12) **driver investigation history file:** Section 391.53, but this section shall not apply to commuter services.

D. Driving of commercial motor vehicles other than small passenger 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 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.

E. Equipment for vehicles other than small passenger vehicles. This rule adopts by reference Chapter 66, Article 3, Parts 9 and 10 NMSA 1978.

F. Inspection, repair and maintenance for vehicles other than small passenger vehicles. 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;

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

(5) **periodic inspection:** Section 396.17;

(6) **inspector qualifications:** Section 396.19;

(7) **periodic inspection recordkeeping requirements:** Section 396.21;

(8) **equivalent to periodic inspection:** Section 396.23(a);

(9) **qualifications of brake inspectors:** Section 396.25.

[18.3.4.12 NMAC - Rp, 18.3.4.12 NMAC, 2/13/2015; A, 11/30/2016; A, 01/30/2018]

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, 2/13/2015]

18.3.4.14 MINIMUM EQUIPMENT STANDARDS FOR VEHICLES OTHER THAN SMALL PASSENGER VEHICLES: A motor carrier shall only use equipment for vehicles other than small passenger vehicles 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, 2/13/2015; A, 11/30/2016]

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 2/13/2015.