

TITLE 18 TRANSPORTATION AND HIGHWAYS
CHAPTER 3 MOTOR CARRIER GENERAL PROVISIONS
PART 6 TARIFFS

18.3.6.1 ISSUING AGENCY: New Mexico Department of Transportation.
[18.3.6.1 NMAC - Rp, 18.3.6.1 NMAC, 7/1/2024]

18.3.6.2 SCOPE: This rule applies to motor carriers of tariffed services to include ambulance, household goods, shuttle, taxicab, nonconsensual towing, and specialized passenger services (limousine, non-emergency medical, tour and sightseeing).
[18.3.6.2 NMAC - Rp, 18.3.6.2 NMAC, 7/1/2024]

18.3.6.3 STATUTORY AUTHORITY: Section 65-2A-4 NMSA 1978 and 2023 N.M. Laws, Chapter 100, Section 81.
[18.3.6.3 NMAC - Rp, 18.3.6.3 NMAC, 7/1/2024]

18.3.6.4 DURATION: Permanent.
[18.3.6.4 NMAC - Rp, 18.3.6.4 NMAC, 7/1/2024]

18.3.6.5 EFFECTIVE DATE: July 1, 2024, unless a later date is cited at the end of a section.
[18.3.6.5 NMAC - Rp, 18.3.6.5 NMAC, 7/1/2024]

18.3.6.6 OBJECTIVE: The purpose of this rule is to implement Sections 65-2A-20 through 65-2A-22 NMSA 1978.
[18.3.6.6 NMAC - Rp, 18.3.6.6 NMAC, 7/1/2024]

18.3.6.7 DEFINITIONS: See 18.3.1.7 NMAC.
[18.3.6.7 NMAC - Rp, 18.3.6.7 NMAC, 7/1/2024]

18.3.6.8 COMMENCEMENT OF OPERATIONS: Prior to the performance of any operations, a tariff containing rates, terms and conditions, and any applicable time schedules of service must be approved by, and on file with, the department.
[18.3.6.8 NMAC - Rp, 18.3.6.8 NMAC, 7/1/2024]

18.3.6.9 CONTENTS OF TARIFFS: All proposed tariffs shall be in the prescribed form and for scheduled shuttle services, or for general shuttle services opting to operate pursuant to a set schedule, shall include the daily presentment times for each end or intermediate terminal location. A proposed tariff shall include specific rates, not ranges of rates, and shall not include any provision for mandatory gratuities or any limits to liability for negligence.
[18.3.6.9 NMAC - Rp, 18.3.6.9 NMAC, 7/1/2024]

18.3.6.10 COMPUTATION OF DISTANCES:

A. A motor carrier shall use the least expensive route when charging by mileage, consistent with existing events and road and weather conditions, unless the passenger or customer directs otherwise.

B. A motor carrier other than a taxicab service shall compute actual distances, as applicable, using odometer readings, global positioning system (GPS) data, or the official road map of New Mexico issued by the department.

C. Any remaining fraction of less than one-half mile will be omitted; any remaining fraction of one-half mile or greater will be increased to the next whole mile.

[18.3.6.10 NMAC - Rp, 18.3.6.10 NMAC, 7/1/2024]

18.3.6.11 TARIFFS TO BE AVAILABLE: Tariffs must be maintained as a record at the motor carrier's principal place of business and must be available to the public at all times the motor carrier is open for business. For shuttle services, rates and applicable terminal presentment schedules must be posted at each terminal. Motor carriers providing certificated passenger services shall additionally post the tariff rates in the passenger compartment of each service vehicle.

[18.3.6.11 NMAC - Rp, 18.3.6.11 NMAC, 7/1/2024]

18.3.6.12 TARIFF CHANGE APPLICATIONS: A motor carrier that proposes to change its rates, terms and conditions of service, shall file an application for a change in tariff with any required fee and submit a proposed tariff to reflect the desired changes, and provide additional information as specified below.

A. Rate increases for a full service carriers and towing services: A tariff change application submitted by a municipal taxicab, a scheduled shuttle, an ambulance service, or a towing service providing non-consensual tows, that proposes to increase rates shall include:

(1) a side-by-side comparison of the proposed tariff rates and the current tariff rates a balance sheet for the preceding fiscal year;

(2) an income statement for the preceding fiscal year;

(3) all documentary evidence which the applicant believes supports its proposed change in rates; and

(4) pre-filed direct testimony explaining why a change in rates is required for the motor carrier to achieve revenue levels that will provide a flow of net income adequate to support reasonable expense levels, including reasonable depreciation expense and repayment of a reasonable level of debt, and permit the raising of needed equity capital.

B. Rate increases for general service carriers: A tariff change application submitted by a general taxicab, general shuttle, a household goods, or specialized passenger (limousine, non-emergency medical, tour or sightseeing) service carrier shall include.

a side-by-side comparison of the proposed tariff rates and the current tariff rates.

C. Scheduled shuttle service daily schedule change: A tariff change application seeking to change the daily time schedule for a scheduled shuttle service shall include:

(1) a side-by-side comparison of the proposed schedule and the current schedule; and

(2) a description of the need or reason for the proposed changes.

[18.3.6.12 NMAC - Rp, 18.3.6.12 NMAC, 7/1/2024]

18.3.6.13 NOTICE, REVIEW AND DETERMINATION:

A. Notice period: The department shall issue notice of a completed application for tariff change with a copy of the proposed tariff. The notice period is 19 calendar days after a completed application is filed with the department, excluding the day of filing, and including weekends and holidays. If the last day is a weekend or holiday, then the notice period ends on the next business day.

B. Review: No protest or objection is permitted or considered in response to a tariff change application. A hearing on a proposed tariff rate increase may be either requested by the applicant or required by the department during the notice period to further consider the lawfulness or reasonableness of the proposed rate increase. If a hearing is initiated, the motor carrier may apply for temporary authority to increase rates during the period of consideration and until the department issues a determination on the tariff change application.

C. Determination:

(1) **Approved by default:** If no hearing is initiated for the purpose of reviewing a proposed tariff rate increase, a tariff change shall be approved by default and become effective 20 days after the date that the completed application was filed with the department.

(2) **Final decision:** If a hearing is initiated on the tariff change application, or if a complaint is received that requires an investigation of the applicant's existing or proposed tariff, a determination will be delayed for further consideration and required proceedings. Following such administrative proceedings, a final written determination shall be issued to approve, deny, or modify the proposed tariff as provided by law.

[18.3.6.14 NMAC - N, 7/1/2024]

18.3.6.14 COMPLAINTS, INVESTIGATIONS AND PENALTIES: If a written complaint is submitted to the department regarding tariff rates, terms of service, or related practice, that suggests that the tariff service is provided in a manner that is inconsistent with the laws, operating authority or approved tariff, the department may immediately suspend the operation of the rate, term of service or practice for up to 60 days to investigate. If the department determines that the complaint is substantiated, the department may modify and impose a tariff to comply with the legal requirements and pursue any penalties as prescribed by law.

[18.3.6.14 NMAC - N, 7/1/2024]

HISTORY OF 18.3.6 NMAC:

Pre-NMAC history. The material in this rule was previously filed with the State Records Center as:
SCC 68-16, N.M. Motor Carrier Act, Rules and Regulations, effective Sept. 1, 1967, filed on 3/14/1968;
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. 5, Tariffs and Schedules, filed on 3/5/1982;
SCCMC Rule No. 26, New Time Schedules, filed on 3/5/1982;
SCC Rule 221, Tariffs, Rates and Schedules, filed on 1/5/1993;
SCC Rule 222, Motor Carrier Agreements, filed on 1/5/1993;
SCC Rule 267, Wrecker Services.

History of repealed material.

SCC Rule 221, Tariffs, Rates and Schedules, filed on 1/5/1993;
SCC Rule 222, Motor Carrier Agreements, filed on 1/5/1993;
SCC Rule 267, Wrecker Services.
18.3.6 NMAC, Tariffs, (filed on 12/10/2002) - repealed effective 2/13/2015.
18.3.6 NMAC, Tariffs, (filed on 1/28/2015) - repealed effective 7/1/2024.

Other: 18.3.6 NMAC, Tariffs, (filed on 1/28/2015) was replaced by 18.3.6 NMAC, Tariffs, effective 7/1/2024.