

TITLE 18 TRANSPORTATION AND HIGHWAYS
CHAPTER 3 MOTOR CARRIER GENERAL PROVISIONS
PART 8 CHANGES IN CERTIFICATES

18.3.8.1 ISSUING AGENCY: New Mexico Department of Transportation.
[18.3.8.1 NMAC - Rp, 18.3.8.1 NMAC, 7/1/2024]

18.3.8.2 SCOPE: This rule applies to all motor carriers operating pursuant to a certificate issued by the department.
[18.3.8.2 NMAC - Rp, 18.3.8.2 NMAC, 7/1/2024]

18.3.8.3 STATUTORY AUTHORITY: Section 65-2A-4 NMSA 1978, and 2023 N.M. Laws, Chapter 100, Section 81.
[18.3.8.3 NMAC - Rp, 18.3.8.3 NMAC, 7/1/2024]

18.3.8.4 DURATION: Permanent.
[18.3.8.4 NMAC - Rp, 18.3.8.4 NMAC, 7/1/2024]

18.3.8.5 EFFECTIVE DATE: July 1, 2024, unless a later date is cited at the end of a section.
[18.3.8.5 NMAC - Rp, 18.3.8.5 NMAC, 7/1/2024]

18.3.8.6 OBJECTIVE: The purpose of this rule is to implement Section 65-2A-14 NMSA 1978.
[18.3.8.6 NMAC - Rp, 18.3.8.6 NMAC, 7/1/2024]

18.3.8.7 DEFINITIONS: See 18.3.1.7 NMAC.
[18.3.8.7 NMAC - Rp, 18.3.8.7 NMAC, 7/1/2024]

18.3.8.8 CERTIFICATE CHANGE FOLLOWING A TRANSFER BY OPERATION OF LAW:
This section shall apply whenever the ownership of, or interest in, a certificate passes to another by operation of law, such as upon inheritance, bequest, order in bankruptcy or insolvency, execution sale, repossession upon default of a loan, lease or executory sales contract.

A. Notice: The personal representative, executor, administrator, receiver, trustee or other representative or successor in interest of the operating authority shall sign and submit to the department a notice of transfer by operation of law. The notice shall contain:

- (1) the name of the holder from whom the certificate is to be transferred;
- (2) the circumstances resulting in the transfer by operation of law; and
- (3) a certified copy of a court order or other document admissible pursuant to the New Mexico rules of evidence, establishing that the transfer by operation of law has occurred;
- (4) whether the successor intends to modify or continue operations under the certificate, or to voluntarily suspend or cancel the certificate.

B. Department approval required: The successor must apply for, and receive, department approval for any change to, or continued operations under, the certificate. Approvals may be expedited under Subsection C of Section 65-2A-14 NMSA 1978.
[18.3.8.8 NMAC - Rp, 18.3.8.8 NMAC, 7/1/2024]

18.3.8.9 CHANGE TO THE FORM OF LEGAL ENTITY, NAME OR CONTROL OF A CERTIFICATE HOLDER:

A. An application for a change of name, form or control of legal entity, or control of a holder of the certificate shall be on the prescribed form accompanied by any required fee, and shall include updates to the information, documents and statements required for applications in 18.3.2.9 NMAC, and insurance filing forms in the new name, if applicable.

B. The department shall conduct a legal review to ensure that the change does not involve a transfer or lease of authority for which a notice and hearing are required, and additional documents may be required for the purpose of such review. Once the application is deemed complete and appropriate to the situation, the department shall promptly issue a new certificate to reflect the change
[18.3.8.9 NMAC - Rp, 18.3.8.10 NMAC, 7/1/2024]

18.3.8.10 LEASE OR VOLUNTARY TRANSFER OF A CERTIFICATE: If a certificate holder seeks to lease all or part of its certificate, or to transfer its certificate, an application for certificate authorization, as described in 18.3.2 NMAC, must be submitted along with any required fee. Additional information is required as part of that application, as provided below, and the application may be contested by protest, objection, or by staff.

A. Lease of certificate information: An applicant for a lease of a certificate, in whole or in part, shall submit:

- (1) whether the certificate will be leased in whole or in part, describing the part;
- (2) a copy of the proposed lease, containing provisions specifying:
 - (a) that the proposed lease is not effective until approved by the department;
 - (b) the term of the lease providing specific dates or conditions.

B. Voluntary transfer of certificate information: An applicant for the permanent conveyance of a certificate, in whole or in part, shall also submit:

- (1) whether the certificate will be transferred in whole or in part, describing the part;
- (2) a notarized joint affidavit, 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.

C. Notice and hearing requirements: Once the application is complete and any fees received, the department must provide public notice of the application to provide an opportunity for the application to be challenged. The application shall receive a hearing only if intervenor status is granted in response to a timely objection or protest, or if the staff request a hearing. If after the notice period the application is uncontested, the department shall approve the application.

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

18.3.8.11 CERTIFICATE CANCELLATION, VOLUNTARY SUSPENSION AND REINSTATEMENT:

A. Application: A certificate holder may apply to permanently cancel its certificate or to voluntarily suspend all or a part of its certificate for a period of up to 12 consecutive months. The application shall be submitted on the prescribed form with any required fee and contain:

- (1) whether the suspension is sought for all or part of its certificate, with a description of the partial nature of any suspension sought; and
- (2) the date on which the applicant proposes to permanently cancel or to suspend all or part of its certificate and the length of the suspension period, which shall not exceed 12 consecutive months.

B. Approval: Once the application is complete, the department shall promptly cancel, or suspend either in whole or in part, the certificate.

C. Reinstatement of certificate following a voluntary suspension: Following a voluntary suspension, in whole or in part, that did not exceed 12 consecutive months, an applicant may submit the prescribed form for full reinstatement with any required fees and provide a notarized statement that the applicant is fit and able to render reasonably continuous and adequate service. The department may promptly conduct an inspection and require any identified deficits to be remedied prior to approving the reinstatement request.

[18.3.8.11 NMAC - Rp, 18.3.8.11 NMAC, 7/1/2024]

18.3.8.11 - 18.3.8.13 [RESERVED]

HISTORY OF 18.3.8 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 3/14/191968;
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. 20, Legal Entry, filed on 3/5/1982;

SCCMC Rule No. 21, Transfer of Certificates, filed on 3/5/1982;
SCCMC Rule No. 22, Lease of Certificates, filed on 3/5/1982;
SCCMC Rule No. 42, Consolidation of Certificates, filed on 3/5/1982;
SCC Rule 218, Changes in Operating Authority, filed on 1/5/1993.

History of Repealed Material:

SCC Rule 218, Changes in Operating Authority (filed 1/5/1993) repealed 12/30/2002.
18.3.8 NMAC, Changes in Certificates of Public Convenience and Necessity and Permits (filed 12/10/2002) repealed 1/1/2005.
18.3.8 NMAC, Motor Carrier General Provisions / Changes in Certificates and Permits (filed 12/16/2004), repealed 2/13/2015.
18.3.8 NMAC, Motor Carrier General Provisions / Changes in Certificates and Permits (filed 1/28/2015), repealed 7/1/2024.

Other History:

SCC Rule 218, Changes in Operating Authority (filed 1/5/1993) was replaced by 18.3.8 NMAC, Changes in Certificates of Public Convenience and Necessity and Permits, effective 12/30/2002.
18.3.8 NMAC, Changes in Certificates of Public Convenience and Necessity and Permits (filed 12/10/2002) was replaced by 18.3.8 NMAC, Changes in Certificates and Permits, effective 1/1/2005.
18.3.8 NMAC, Changes in Certificates and Permits (filed 12/16/2004) was replaced by 18.3.8 NMAC, Changes in Certificates and Permits effective 2/13/2015.
18.3.8 NMAC, Changes in Certificates and Permits (filed 1/28/2015) was replaced by 18.3.8 NMAC, Changes in Certificates effective 7/1/2024.