

TITLE 18 TRANSPORTATION AND HIGHWAYS
CHAPTER 3 MOTOR CARRIER GENERAL PROVISIONS
PART 12 TOWING SERVICES

18.3.12.1 ISSUING AGENCY: New Mexico Department of Transportation.
[18.3.12.1 NMAC - Rp, 18.3.12.1 NMAC, 7/1/2024]

18.3.12.2 SCOPE: This rule applies to all towing services providing non-consensual tows and all repossession services using towing equipment and is in addition to all other applicable requirements of these rules.
[18.3.12.2 NMAC - Rp, 18.3.12.2 NMAC, 7/1/2024]

18.3.12.3 STATUTORY AUTHORITY: Sections 8-8-4 and 65-2A-4 NMSA 1978.
[18.3.12.3 NMAC - Rp, 18.3.12.3 NMAC, 7/1/2024]

18.3.12.4 DURATION: Permanent.
[18.3.12.4 NMAC - Rp, 18.3.12.4 NMAC, 7/1/2024]

18.3.12.5 EFFECTIVE DATE: July 1, 2024, unless a later date is cited at the end of a section.
[18.3.12.5 NMAC - Rp, 18.3.12.5 NMAC, 7/1/2024]

18.3.12.6 OBJECTIVE: The purpose of this rule is to establish requirements for towing services subject to the limitations and policy of 49 U.S.C. 14501. The clearing of public highways and roads is a matter of public safety, which cannot be reasonably accomplished by state and local law enforcement officials, unless uniform maximum rates for service are required for tows requested or directed by law enforcement or other safety officials. Public safety also requires secure storage yards for vehicles and reasonable access to towed vehicles, and particularly requires reasonably rapid access to operable vehicles that have been towed as the result of trespass tows, which may unexpectedly deprive members of the public of transportation as well as the personal items stored in their vehicle. Reasonable proximity of the carrier's office and books and records is required for efficient and effective inspections of safety and financial responsibility requirements, as well as the public's ability to retrieve towed vehicles.
[18.3.12.6 NMAC - Rp, 18.3.12.6 NMAC, 7/1/2024]

18.3.12.7 DEFINITIONS: In addition to the definitions in Section 65-2A-3 NMSA 1978 and 18.3.1.7 NMAC, as used in this rule:

- A. MVD** means the motor vehicle division of the New Mexico taxation and revenue department;
- B. consensual tow** means a motor vehicle tow which has not been directed or requested by a law enforcement official, and for which actual consent has been obtained by the towing service from the owner or operator of the vehicle prior to the tow;
- C. nonconsensual tow** has the meaning given in Subsection JJ of Section 65-2A-3 NMSA 1978 for purposes of this rule, regardless of whether the owner or operator of the towed vehicle has consented to a tow requested or directed by a law enforcement official;
- D. normal business hours** means any eight hours between the hours of 8:00 a.m. to 5:00 p.m. excluding one hour lunch on every weekday excluding state recognized holidays;
- E. owner of a motor vehicle** means a person who holds legal title to a motor vehicle or a person legally entitled to possession of the motor vehicle;
- F. proof of ownership** means a certificate of title, evidence of current registration of a motor vehicle or other legal documentation of ownership including but not limited to the vehicle owner's delegation of the power of attorney, assignment of agent by notarized letter, or a report from MVD or other reliable source identifying the current registered owner, and sufficient other documentation to identify an individual as the person described in the documents or as the person's agent;
- G. public directive tow** means any nonconsensual motor vehicle tow performed at the direction or request of a law enforcement official, including tows assigned by law enforcement agencies through a rotational call system, regardless of whether the owner or operator of the towed vehicle ever consented to the tow;
- H. storage** means the safekeeping of motor vehicles entrusted to the custody of a towing service;
- I. trespass tow** means the nonconsensual tow of a motor vehicle which is illegally parked on property other than a public roadway, for which actual consent has been obtained by the towing service from the

owner or lessee of the private property or the owner's or lessee's agent prior to the tow and for which actual consent has not been obtained by the towing service from the owner or operator of the vehicle prior to the tow, but does not include a motor vehicle tow performed at the request or direction of a law enforcement official;

J. unclaimed motor vehicle means a vehicle that has been placed in a storage or impound lot to which no owner or lienholder of record has asserted a valid claim after required attempts to contact the owner and lienholder have been made.

[18.3.12.7 NMAC - Rp, 18.3.12.7 NMAC, 7/1/2024]

18.3.12.8 MINIMUM EQUIPMENT STANDARDS: A towing service shall use only those winches and towing equipment that have been produced and constructed by a manufacturer of such equipment that regularly produces winches and towing equipment of guaranteed quality.

[18.3.12.8 NMAC - Rp, 18.3.12.8 NMAC, 7/1/2024]

18.3.12.9 CLASSIFICATION OF TOWING EQUIPMENT: The standards for each class of towing service shall be determined solely by the manufacturer's specifications for the capabilities of tow and vehicle carrier trucks and towing equipment.

- A. Class A - operating authority for towing up to 8,000 pounds;
- B. Class B - operating authority for towing between 8,001 and 12,000 pounds;
- C. Class C - operating authority for towing between 12,001 and 25,000 pounds;
- D. Class D - operating authority for towing 25,001 pounds and over.

[18.3.12.9 NMAC - Rp, 18.3.12.9 NMAC, 7/1/2024]

18.3.12.10 CLASS A TOWING EQUIPMENT: A class A towing service shall maintain equipment adequate to transport motor vehicles, provided that the total gross weight of the vehicle, special equipment, special bodies and lading shall not exceed 8,000 pounds.

- A. **Tow truck specifications.**
 - (1) GVW rating of not less than 10,000 pounds;
 - (2) Minimum of 60" cab to axle length;
 - (3) Automatic or manual transmission;
 - (4) Dual rear wheels.
- B. **Towing equipment specifications.**
 - (1) Lifting capacity of not less than four tons;
 - (2) Winching capacity of not less than four tons, single line pull;
 - (3) 3/8" cable for winch;
 - (4) Tow bar, cradle, sling attachment, under reach, or roll-back vehicle carrier.
- C. **Vehicle carrier truck specifications.**
 - (1) GVW of not less than 10,000 pounds;
 - (2) Minimum of 96" cab to axle length;
 - (3) Dual rear wheels;
 - (4) Automatic or manual transmission.
- D. **Vehicle carrier bed specifications.**
 - (1) Minimum of 17' of length;
 - (2) Winching capacity of not less than four tons;
 - (3) 3/8" cable for winch.

[18.3.12.10 NMAC - Rp, 18.3.12.10 NMAC, 7/1/2024]

18.3.12.11 CLASS B TOWING EQUIPMENT: A class B towing service shall maintain equipment adequate to transport passenger cars, trailers, semi-trailers, trucks and truck-tractors, provided that the total gross weight of vehicle, special equipment, special bodies and lading shall exceed 8,001 pounds, but shall not exceed 12,000 pounds. Unless otherwise specifically restricted by its operating authority, a class B towing service may also render class A service but must charge the tariffed rates for class A service when it does so and must use class B equipment.

- A. **Tow truck specifications:**
 - (1) GVW rating of not less than 11,000 pounds;
 - (2) Minimum of 60" cab to axle length;
 - (3) Dual rear wheels;

- (4) Automatic or manual transmission.
- B. Towing equipment specifications:**
 - (1) Lifting capacity of not less than eight tons;
 - (2) Winching capacity of not less than eight tons;
 - (3) 3/8" cable for winch;
 - (4) Tow bar, cradle, or sling attachment, under reach, or roll-back vehicle carrier.
- C. Vehicle carrier truck specifications:**
 - (1) GVW of not less than 14,000 pounds;
 - (2) Minimum of 108" cab to axle length;
 - (3) Dual rear wheels;
 - (4) Automatic or manual transmission.
- D. Vehicle carrier bed specifications:**
 - (1) Minimum of 17' of length;
 - (2) Winching capacity of not less than four tons;
 - (3) 3/8" cable for winch.

[18.3.12.11 NMAC - Rp, 18.3.12.11 NMAC, 7/1/2024]

18.3.12.12 CLASS C TOWING EQUIPMENT: A class C towing service shall maintain equipment adequate to transport trailers, semi-trailers, trucks, truck-tractors and other vehicles, provided that the total gross weight of the vehicle, special equipment, special bodies and lading shall exceed 12,001 pounds, but shall not exceed 25,000 pounds. Unless otherwise specifically restricted by its operating authority, a class C towing service may also render class A or class B service but must charge the tariffed rates for class A or class B service when it does so and must use class C equipment.

- A. Tow truck specifications:**
 - (1) GVW rating of not less than 25,000 pounds;
 - (2) Dual rear wheels;
 - (3) Automatic or manual transmission;
 - (4) Full air brakes, constructed so as to lock power wheels upon air failure.
- B. Towing equipment specifications:**
 - (1) Lifting capacity of not less than 10 tons;
 - (2) Combined winching capacity of not less than 10 tons;
 - (3) 7/16" cable for winch;
 - (4) Tow bar, cradle or sling attachment, under reach, or roll-back vehicle carrier.

C. Use of lowboy: A towing service may use a tractor to tow a trailer when the trailer is part of a damaged or disabled unit. A towing service may use a lowboy when a tractor, trailer, or other class C vehicle cannot be towed by a tractor. A towing service may transport the contents of a damaged or disabled unit by means of a carrier or trailer when appropriate.

[18.3.12.12 NMAC - Rp, 18.3.12.12 NMAC, 7/1/2024]

18.3.12.13 CLASS D TOWING EQUIPMENT: A class D towing service shall maintain equipment adequate to transport trailers, semi-trailers, trucks, truck-tractors and other vehicles, provided that the total gross weight of the vehicle, special equipment, special bodies and lading shall exceed 25,001 pounds. Unless otherwise specifically restricted by its operating authority, a class D towing service may also render class A, class B, or class C service but must charge the tariffed rates for class A or class B or class C service when it does so and must use class D equipment.

- A. Tow truck specifications:**
 - (1) Gross Vehicle Weight (GVW) rating of not less than 49,000 pounds;
 - (2) Manual transmission;
 - (3) Dual axle (tandem) rear wheels;
 - (4) Minimum of 120" cab to axle length;
 - (5) Full air brakes constructed so as to lock power wheels upon air failure.
- B. Towing equipment specifications:**
 - (1) Lifting capacity of not less than 25 tons;
 - (2) Combined winching capacity of not less than 25 tons;
 - (3) 5/8" cable for winch;
 - (4) Tow bar, cradle or sling attachment, under reach or roll-back vehicle carrier.

C. **Use of lowboy:** A towing service may use a tractor to tow a trailer when the trailer is part of a damaged or disabled unit. A towing service may use a lowboy when a tractor, trailer, or other class D vehicle cannot be towed by a tractor. A towing service may transport the contents of a damaged or disabled unit by means of a carrier or trailer when appropriate.

[18.3.12.13 NMAC - Rp, 18.3.12.13 NMAC, 7/1/2024]

18.3.12.14 AUTHORIZATION AND PROCEDURE FOR MOVING MOTOR VEHICLES:

A. A towing service shall only perform the following tows:

(1) **By consent:** A warranted towing service may perform a consensual tow pursuant to the procedures specified in this rule and other applicable rules.

(2) **By directive:** A warranted towing service may perform a motor vehicle tow explicitly ordered by a law enforcement officer. In the event of a tow explicitly ordered by a law enforcement official, the towing service shall attempt to first obtain written authorization from a law enforcement officer and a written inventory of the contents of the vehicle. If the towing service is unable to first obtain a written authorization and inventory from a law enforcement officer, the towing service shall obtain the name of the officer ordering the tow, the agency that employs the officer, and any other identifying employment information, such as badge number, and shall perform its own inventory of the contents of the vehicle.

(3) **Necessary for public safety:** A warranted towing service may perform a motor vehicle tow necessary for public safety, but only for the distance necessary to remove the hazard to other motor vehicles using the highway and only where:

(a) no law enforcement officer is available within a period of three or more hours;
and

(b) the accident or abandonment has occurred at a point on the highway which may be dangerous to other motor vehicles using the highway and it is not possible to detour other motor vehicles around the damaged or disabled motor vehicle.

(4) **Trespass tows:** No towing service shall attach hoisting or towing devices or move, tow or molest in any way, any motor vehicle illegally parked on property other than a public roadway without having first obtained written authorization from the owner or lessee of the property, or the owner's or lessee's agent. Written authorization shall include the name and signature of the owner or lessee of the property or the name and signature of the property owner's or lessee's agent if different, the location of the private property, the amount of time the motor vehicle has been on the property, a description of the vehicle, the date and time the towing service removed the vehicle from the property, and a statement by the owner, lessee or agent that the vehicle is illegally parked.

(a) Before towing a motor vehicle that is illegally parked on private property, the towing service shall take a digital photograph or photographs of the motor vehicle showing its position on the private property.

(b) No towing service shall attach hoisting or towing devices or move, tow or molest in any way, any motor vehicle illegally parked on commercial property or at an apartment unless the property contains visible signs notifying the public that illegally parked motor vehicles may be towed. The visible signs shall specify the exact time periods (starting and ending hours) when the vehicle is determined to be "illegally parked" on commercial property or at an apartment house. Before towing a motor vehicle that is illegally parked on private commercial property or at an apartment, the towing service shall take a digital photograph or photographs of the signage notifying the public that illegally parked motor vehicles may be towed.

B. **Additional requirements:** When towing motor vehicles, a towing service shall:

(1) ensure that at least two wheels of the motor vehicle, front or rear, are clear of the highway;

(2) use a cradle or bar to provide a rigid space between the motor vehicle and the tow truck;
and

(3) use a cradle or rigid bar without lifting the front or rear wheels if the total gross weight of the motor vehicle, including lading, exceeds 10,000 pounds.

C. **Prohibitions:** A towing service shall not:

(1) pay or refund, directly or indirectly, any remuneration or anything of value to a private property owner or agent for the ability to perform nonconsensual tows on the private property;

(2) transport a motor vehicle of any type by pushing;

(3) transport a disabled motor vehicle on a dolly or other wheeled auxiliary device, except when the auxiliary device is specifically designed for, and used only for, the towing of disabled motor vehicles;

(4) use a wheeled auxiliary device unless it is necessary to prevent further mechanical damage to the motor vehicle being moved; or

(5) use a wheeled auxiliary device unless the nature of the existing damage prohibits moving the motor vehicle in any other way.

[18.3.12.14 NMAC - Rp, 18.3.12.14 NMAC, 7/1/2024]

18.3.12.15 SECUREMENT: A towing service shall secure every towed motor vehicle to the towing vehicle in accordance with 49 CFR 393, Subpart F, Coupling Devices and Towing Methods, and Subpart I, Protection Against Shifting and Falling Cargo.

[18.3.12.15 NMAC - Rp, 18.3.12.15 NMAC, 7/1/2024]

18.3.12.16 USE OF DOLLY OR SUPPLEMENTARY WHEELS:

A. A towing service shall not use a wheeled auxiliary device when such use could jeopardize the safety of the public.

B. Only class A and class B towing services may use dollies or supplementary wheels and then only when necessary.

C. Class C and class D towing services may use converter dollies when necessary to transport class C or class D motor vehicles.

D. A towing service may use a dolly when both ends of the motor vehicle to be towed are damaged or it is necessary to prevent further damage.

[18.3.12.16 NMAC - Rp, 18.3.12.16 NMAC, 7/1/2024]

18.3.12.17 DISCONNECTION OF DRIVELINE: A towing service may disconnect or remove the driveline from a motor vehicle to be towed when:

A. it is necessary to prevent mechanical damage to the motor vehicle; or

B. the motor vehicle's front end is so damaged, or for some other reason, it cannot be towed by lifting the rear end.

[18.3.12.17 NMAC - Rp, 18.3.12.17 NMAC, 3/14/2017; Rp, 18.3.12.17 NMAC, 7/1/2024]

18.3.12.18 SAFETY CONSIDERATIONS:

A. **Unsafe conditions:** A towing service is not obligated to transport shipments when, in the service's judgment, weather or road conditions make it impracticable or unsafe to operate.

B. **Passengers prohibited:** No person, other than an employee of the towing service, shall ride in a disabled motor vehicle while it is being transported.

C. **Chains or cable across highway:** A towing service shall not stretch or place any motor vehicles, cables or chains across any highway unless and until flagmen are placed a minimum distance of 300 feet from the obstruction in each direction along the highway to stop or warn approaching traffic. A towing service shall equip flagmen with red flags during daylight hours and electric lanterns with red lights during hours of darkness.

[18.3.12.18 NMAC - Rp, 18.3.12.18 NMAC, 7/1/2024]

18.3.12.19 SAFETY EQUIPMENT REQUIREMENTS: All towing services must maintain the following safety equipment on each tow truck at all times for the described use:

A. flashing blue, amber or a combination of both colors of lights, front and rear, which shall be in operation whenever a towing service is standing on a roadway for the purpose of removing a motor vehicle and at all times while transporting a motor vehicle;

B. stop, tail, and turn signals on any motor vehicle in tow that can be operated from the towing vehicle;

C. spot lights that are capable of lighting the scene of disability after dark and additional spotlights or work lights positioned behind the cab of the towing service that can be used to illuminate the motor vehicle being serviced;

D. one hand axe;

E. one wrecking bar at least four feet in length;

F. at least one broom, one shovel, and one bag or container for removal of broken glass and debris

from highway;

G. one 10 unit type first-aid kit;

H. at least three triangle-type reflectors;

- I. at least six electronic fuses, 25 minute flares, or reflective cones;
 - J. at least four red signal flags (minimum dimensions - two feet by two feet (2' x 2')); and
 - K. at least one charged fire extinguisher having a minimum capacity of 10 pounds of dry chemical capable of extinguishing class A, B and C fires.
- [18.3.12.19 NMAC - Rp, 18.3.12.19 NMAC, 7/1/2024]

18.3.12.20 DEADHEAD MILEAGE: Except as otherwise provided in this rule, a towing service may assess deadhead mileage charges when performing a nonconsensual tow of a vehicle, and the owner or operator of the towed vehicle asks or directs the towing service to tow the vehicle to a location other than the towing service's base of operation or storage facility. When calculating deadhead mileage charges in such case, deadhead mileage shall not exceed total mileage less loaded mileage.

- A. **Total mileage calculation:** Total mileage shall equal the sum of:
 - (1) the mileage from the base of operation to the loading pick up point;
 - (2) the mileage from the loading pick-up point to the destination; and
 - (3) the mileage from the destination back to the original base of operation.
 - B. **Loaded mileage calculation:** Loaded mileage shall equal the number of miles from the loading pick-up point to the destination.
 - C. **Excess deadhead mileage charges:** A towing service performing a public directive tow may assess excess deadhead mileage charges for the unloaded mileage from its base of operation to the scene and from the scene back to its base of operation when the vehicle needs to be recovered, but the vehicle is not towed.
- [18.3.12.20 NMAC - Rp, 18.3.12.20 NMAC, 7/1/2024]

18.3.12.21 TOWING MULTIPLE MOTOR VEHICLES IN ONE TRIP: When a towing service tows two or more disabled motor vehicles during one trip, it may charge the reasonable and appropriate tariff rates for the second and succeeding motor vehicles as though each were an independent tow, including but not limited to separate charges for hookup, mileage, etc. for each vehicle.

[18.3.12.21 NMAC - Rp, 18.3.12.21 NMAC, 7/1/2024]

18.3.12.22 ALTERED, MUTILATED, OR MISSING VEHICLE IDENTIFICATION NUMBER (VIN): A towing service must notify the local law enforcement agency or the New Mexico state police in writing as soon as it discovers an altered, mutilated, or missing VIN on a motor vehicle in its custody, unless the motor vehicle has been impounded by a law enforcement officer aware of the altered, mutilated, or missing VIN.

[18.3.12.22 NMAC - Rp, 18.3.12.22 NMAC, 7/1/2024]

18.3.12.23 STORAGE FACILITIES: Towing service includes the storage of motor vehicles. Towing service begins when the motor vehicle is entrusted to the towing service and ends when the towing service delivers the motor vehicle to the owner or the owner's agent. Storage begins when the motor vehicle arrives at the storage facility and ends when the motor vehicle leaves the storage facility.

- A. **Storage Facility:**

A towing service that performs nonconsensual tows must maintain at least one of the following classes of storage facility:

 - (1) Type 1 - a fenced and locked area;
 - (2) Type 2 - a fenced, lighted, and locked area; or
 - (3) Type 3 - an enclosed, roofed and locked structure.
- B. **Office Location:**

A towing service that performs nonconsensual tows must have its office located either within or in the immediate vicinity of the storage facility. For purposes of this rule, "immediate vicinity" means the area within one mile measured as the straight line distance between the property line of the storage facility and the property line of the property within which the office is located.
- C. **Staffing and Access:**
 - (1) A towing service that performs trespass tows must have a person working in an office that is within or in the immediate vicinity of the storage facility during normal business hours who is able to provide the services specified in Subsections A and B of 18.3.12.24 NMAC.
 - (2) A towing service that performs public directive tows must have a person working at, or available to meet with the public at, the storage facility or the office in the immediate vicinity of the storage facility by appointment during normal business hours within two hours from the time of telephone call requesting an

appointment, who is able to provide the services specified in Subsections A and B of 18.3.12.24 NMAC.

D. Required Signage:

(1) The office of a towing service shall have prominent signage which may be read by a person in a passing vehicle, providing the name, address and contact telephone number of the towing service. If the office is not located within the storage facility, the office signage shall also include the address of the storage facility.

(2) If the storage facility is not located where the towing service office is located, the storage facility shall have prominent signage which may be read by a person in a passing vehicle, providing the name of the towing service, the address of the storage facility, the address of the towing service office, and the contact telephone number of the towing service.

E. Lists or Logs of Nonconsensually Towed Vehicles:

(1) A towing service that performs nonconsensual tows must maintain the following records in addition to all other records required by rule:

(a) a list or log of each and all vehicles currently held in the storage yard which were towed to the storage yard as the result of a trespass tow; and

(b) a list or log of each and all vehicles currently held in the storage yard which were towed to the storage yard as the result of a public directive tow.

(2) Each list or log required in this rule shall be available to provide to an employee of the transportation division of the department or for transmission to the transportation division of the department upon the request or directive of an employee of the transportation division of the department. Each list or log shall contain, for each vehicle required to be listed:

(a) a description of the vehicle, including the make, model, model year, color and vehicle identification number;

(b) the date that the vehicle was towed to the storage yard;

(c) whether the owner of the vehicle or a representative of the owner has been allowed access to the vehicle, and if so, the name of the person allowed access and the date of each access; and

(d) whether the vehicle has been legally abandoned, surrendered or transferred for charges by the owner, and, if so, the type and date of legal transfer.

[18.3.12.23 NMAC - Rp, 18.3.12.23 NMAC, 7/1/2024]

18.3.12.24 INSPECTION AND RELEASE OF TOWED MOTOR VEHICLES:

A. Motor vehicles ordered held for investigation: If a law enforcement agency orders a towing service to hold a motor vehicle for investigation, the towing service shall not, without specific written authorization of the law enforcement agency:

(1) allow the owner of the motor vehicle, the owner's agent, or a lienholder to inspect the motor vehicle or remove proof of ownership or personal property from the motor vehicle; or

(2) release the motor vehicle to any person, including the owner, the owner's agent, or a lienholder.

B. Motor vehicles not held for investigation:

(1) If a law enforcement agency does not order a motor vehicle to be held for investigation, the towing service shall allow the owner, the owner's agent, or the lienholder of the motor vehicle without charge, during normal business hours, to:

(a) inspect the motor vehicle;

(b) remove proof of ownership from the motor vehicle; or

(c) remove personal property from the motor vehicle if he or she presents proof of ownership.

(2) The owner, the owner's agent, or the lienholder of a stored motor vehicle that has not been ordered held for investigation may obtain possession of the motor vehicle by paying all just and reasonable charges and providing proof of ownership:

(a) as a matter of right, during normal or extended business hours; or

(b) at the option of the towing service, during non-business hours; if a towing service elects to deliver a motor vehicle during non-business hours, it must assess the tariffed administrative charge for such delivery.

C. If the owner, the owner's agent, or the lienholder of a motor vehicle disputes any of the charges for towing or storage, or feels the motor vehicle was illegally towed, the towing service shall furnish to the disputant a written statement containing the name, address, and telephone number of the consumer relations division of the

department and advising the disputant that he or she may file a complaint with the department as provided by applicable department rules. The written statement shall be in substantially the following form: "If you have a dispute with the towing service regarding charges for towing or storage, and are not satisfied with the solution offered by the towing service, you may file a complaint with the department.

D. Towing services shall accept payment in cash. Additionally, towing services shall accept payment by either credit card or check. Towing services shall post in a conspicuous location at their place of business which forms of payment, are accepted. Nothing in this rule shall be deemed to restrict the forms of payment that a towing service may accept.

[18.3.12.24 NMAC - Rp, 18.3.12.24 NMAC, 7/1/2024]

18.3.12.25 [RESERVED]

18.3.12.26 NOTICE TO OWNERS OF TOWED MOTOR VEHICLES:

A. Identification of owner:

(1) On site. Before a towing service tows a motor vehicle, it shall request ownership information from the authorizing law enforcement officer on scene.

(2) From the storage facility: If a towing service has not already obtained ownership information on a motor vehicle, it shall obtain the name and address of the registered owner and any lienholder of the motor vehicle.

(a) If the motor vehicle has New Mexico plates, the towing service shall request ownership information within three business days after the motor vehicle comes into its possession.

(b) If the motor vehicle has out-of-state plates or the towing service has other reason to believe that the motor vehicle is registered in a state other than New Mexico, the towing service must request the information from the appropriate agency of that state within three business days after the motor vehicle comes into its possession.

(3) Documentation:

(a) Information requested from the Motor Vehicle Division of any state: A towing service shall retain in its files a photocopy of MVD Form 10705, Vehicle or Hull Identification Number Verification, indicating the date ownership and lienholder information was requested and a copy of any document received in response.

(b) Information requested from other sources:

(i) Electronically: A towing service shall print out and retain in its files a copy of the ownership and lienholder information shown on the computer screen, notated with the name of the person making the request and the date and time the request was made.

(ii) By other means: A towing service shall maintain a record in its files indicating the name of the person requesting ownership and lienholder information, the source from which the information was requested, and the date and time the information was requested, and a copy of any document received from the source in response.

B. Notification of owner:

(1) Within two business days of receiving information identifying the registered owner or any lienholder of the motor vehicle, the towing service shall notify the registered owner and the lienholder, if any, that the towing service has the motor vehicle in its possession.

(2) The towing service shall use MVD Form 10058, notice of mechanic's or landowners' lien, and shall mail the notice by certified mail, return receipt requested, to the registered owner and the lienholder, if any.

(3) This requirement applies even if the VIN is altered, mutilated, or missing.

C. Penalty for failure to comply with this section: A towing service shall not collect any charges or liens for storage of an unclaimed motor vehicle if it fails to either:

(1) request ownership information within three business days after a motor vehicle comes into its possession; or

(2) mail notice to the registered owner and any lienholder within two business days of receipt of ownership information.

D. Exception: A towing service shall not be required to give the notice required by Subsection B of this section to the owner if, before the notice is required to be sent, the owner of the motor vehicle identifies himself to the towing service and makes any arrangement the towing service deems necessary for the payment of the towing and storage charges. However, the towing service shall still be required to give the notice to the lienholder of the

motor vehicle.

[18.3.12.26 NMAC - Rp, 18.3.12.26 NMAC, 7/1/2024]

18.3.12.27 TOWING SERVICE RESPONSIBILITY: A towing service shall be responsible for:

A. removing debris at the scene of an accident whether or not specifically directed to do so by law enforcement authorities; and

B. the safekeeping and delivery of a motor vehicle and its contents entrusted to it or which come into its custody in the course of its authorized operations.

[18.3.12.27 NMAC - Rp, 18.3.12.27 NMAC, 7/1/2024]

18.3.12.28 RECORDS: A towing service shall maintain for a period of three years complete and permanent records of income, photographs, tow bills, and any other documentation required by this rule for non-consensual tows separate and apart from any other towing services and from any other business conducted by the towing service.

[18.3.12.28 NMAC - Rp, 18.3.12.28 NMAC, 7/1/2024]

18.3.12.29 TOWING SERVICES WITH MULTIPLE STORAGE FACILITIES: A towing service may apply to operate with multiple storage facilities by completing the application form prescribed by the director. The director shall approve the application if it contains the name of the towing service, the warrant number, the mailing address of the new storage facility, the physical address of the new storage facility, and a list of the equipment the towing service will station at the new storage facility. A towing service performing non-consensual tows shall transport towed vehicles to the nearest storage facility.

[18.3.12.29 NMAC - Rp, 18.3.12.29 NMAC, 7/1/2024]

HISTORY OF 18.3.12 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 72-12, N.M. Wrecker Tariff No. 1-B, Issued September 29, 1969, filed on 10/2/1972;
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;
SCC 77-3, N.M. Wrecker Tariff No. 1-D, Issued July 1, 1976, filed on 6/6/1977;
SCC 79-2, N.M. Wrecker Tariff No. 3-D, Issued April 15, 1979, filed on 5/25/1979;
SCC 86-4, In the Matter of Minimum Specifications for Wreckers-General Order No. 42 (1986 Revision), filed 9/29/1986;
SCC 92-4-TR, New Mexico Wrecker Rules, filed on 7/29/1992;
SCCMC Rule No. 14, Equipment Required on Certain Vehicles, filed on 3/5/1982;
SCC Rule 202, Definitions, filed on 1/5/1993;
SCC Rule 267, Wrecker Services, filed on 1/5/1993.

HISTORY OF REPEALED MATERIAL:

SCC Rule 202, Definitions, filed on 1/5/1993;
SCC Rule 267, Wrecker Services, filed on 1/5/1993.
18.3.12 NMAC, Motor Carrier General Provisions - Towing Service, filed 12/10/2002, repealed 2/13/2015
18.3.12 NMAC, Motor Carrier General Provisions - Towing Service, filed 1/28/2015, repealed 3/14/2017
18.3.12 NMAC, Motor Carrier General Provisions - Towing Service, filed 3/2/2017, repealed 7/1/2024

OTHER HISTORY:

18.3.12 NMAC, Towing Service (filed 3/2/2017) was replaced by 18.3.12 NMAC, Towing Service effective 7/1/2024.