

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF STAFF’S PETITION TO)
GRANT A PANDEMIC-RELATED WAIVER) Case No. 21-00296-TR-M
TO AMBULANCES FROM RULE 18.3.14.11(A))
NMAC)
_____)

ORDER EXTENDING WAIVER

THIS MATTER comes before the New Mexico Public Regulation Commission ("Commission") on the September 16, 2022, Transportation Division (“Staff”) of the New Mexico Public Regulation Commission (“Commission”) Staff’s Second Update and Recommendation (“Staff’s Update”), concerning the continuance of the waiver from 18.3.14.11(A) NMAC. Having reviewed Staff’s Update and being otherwise fully advised in the premises,

THE COMMISSION FINDS AND CONCLUDES:

1. On December 15, 2021 the Commission issued an Order Granting Waiver granting a temporary waiver from Motor Carrier Rule 18.3.14.11(A) NMAC from the date of the Order until 45 days after the Governor of the State of New Mexico ends or discontinues the state of emergency.
2. The state of emergency continues to be in effect and updated monthly by the Governor (Executive Order 2022-120 extended the state of emergency until September 15, 2022).
3. The state of New Mexico continues to struggle with adequate ambulance service staffing, especially in rural areas, and faces limited staffing resources. The strain is even more pronounced with carriers relying on volunteers.
4. Rule 18.3.14.11(A) reads as follows;

Ambulances.

(1) A minimum of two (2) licensed EMTs from the ambulance service shall be present at the scene of the emergency, except that two (2) EMTs need not be present at the scene for prearranged transfers of a stable patient or in those unusual situations where there are overlapping calls, disasters, or similar unforeseen circumstances which result in an insufficient number of EMTs being available.

(2) A minimum of one (1) EMT shall be in the patient compartment at all times during patient care and transport.

5. Staff's Update indicates that ambulance and hospital resources in many counties continue to be strained by the on-going pandemic. Staff recommended the waiver be continued.

6. The Commission finds that it may, in its discretion, waive or vary any requirement of its Motor Carrier Rules if the Commission finds that such waiver or variance would be in the public's health, welfare, and safety interests.

IT IS THEREFORE ORDERED:

A. The waiver from Motor Carrier Rule 18.3.14.11(A) NMAC is hereby extended to all certificated ambulance providers, for a period of 6 months from the date of this Order or 45 days after the Governor of the State of New Mexico ends or discontinues the state of emergency in the state of New Mexico, whichever is longer in duration.

B. The temporary waiver from Rule 1.2.2.40 NMAC is also extended by the same terms above. The Commission may, at a later date, review which ambulance service carriers have availed themselves of the waivers via a request for response from ambulance carriers. In the event that the waiver is in effect for greater than one year from the date of this Order, the Commission may require providers to submit a request for continuation of the waiver.

C. Transportation Division Staff shall review the need for the waiver and shall file an update into this docket by March 1, 2023 recommending if the waiver should continue to be in place. In the update, Staff should indicate to the Commission how many ambulance service providers have utilized the waiver and how many providers continue to experience staffing shortages at the time of filing for the Commission's review.

D. This Order is effective immediately.

E. This Order shall be served and noticed by the Transportation Division Director by posting a copy on the commission's internet web site and sending electronic 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 publication, advising such persons of the filing and posting.

F. The Transportation Division Director shall immediately notice all motor carriers that the temporary waivers extended herein will expire in 6 months, using the method set forth in Decretal Paragraph E., or 45 days after the Governor of the State of New Mexico ends or discontinues the state of emergency in the state of New Mexico, whichever is longest in duration.

G. The Transportation Division is hereby granted variances from Procedural Rule 1.2.2.40 which normally would otherwise require the filing of a petition and an affidavit in support of the request for a variance from Motor Carrier Rules.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 21st day of
September, 2022.

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Cynthia B. Hall, electronically signed

CYNTHIA B. HALL, COMMISSIONER, DISTRICT 1

/s/ Jefferson L. Byrd, electronically signed

JEFFERSON L. BYRD, COMMISSIONER, DISTRICT 2

Absent

JOSEPH M. MAESTAS, COMMISSIONER, DISTRICT 3

/s/ Theresa Becenti-Aguilar, electronically signed

THERESA BECENTI-AGUILAR, COMMISSIONER, DISTRICT 4

/s/ Stephen Fischmann, electronically signed

STEPHEN FISCHMANN, COMMISSIONER, DISTRICT 5



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_____)**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing *Order Extending*

Waiver was sent via email to the following parties on the date indicate below:

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Deming Fire/EMS Department
Dona Ana County
Elite Medical Transport, LLC
Estancia Volunteer Rescue and Fire
Eunice Fire and Rescue
Floyd Ambulance Service
Folsom Emergency Medical Services
Fort Sumner Ambulance Service
Gallup Fire Department
Gila Regional EMS
Hagerman Fire and Rescue
Hatch Ambulance Service
Helios EMS, LLC
Hidalgo County Ambulance Service
Hobbs Municipal Ambulance Service
Incorporated County of Los Alamos
Isleta Emergency Services
Jemez Pueblo Ambulance
Jicarilla Emergency Medical Services
JJDAC, LLC Dba Medstar Ambulance
La Clinica Del Pueblo De Rio Arriba
Laguna Fire and Rescue
Lincoln County Ambulance
Logan Ambulance Service
Lovington Ambulance Service
Magdalena Volunteer Fire Department
Melrose Fire and Ambulance
Mescalero Apache Fire Rescue
Milnesand & Arch Volunteer Fire District
Mora County Ambulance Service
Mountainair Fire & Rescue
Pine Hill Health Center-Ems
Presbyterian Espanola Hospital EMS
Pueblo Of Zuni Dba Zuni Ems
Questa Volunteer Fire Department
Raton Ambulance Service
Rosebud Fire & Rescue Inc.
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San Juan Regional Medical Center, Inc
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DATED this 22nd day of September, 2022.

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ LaurieAnn Santillanes, electronically signed

LaurieAnn Santillanes