

**TITLE 1
CHAPTER 5
PART 5
REGULATIONS**

**GENERAL GOVERNMENT ADMINISTRATION
PUBLIC PROPERTY MANAGEMENT
AVIATION SERVICES BUREAU AIRCRAFT USE**

1.5.5.1 **ISSUING AGENCY:** General Services Department –
Transportation Services Division.
[1.5.5.1 NMAC – Rp, GSD 93-201, 2/28/05]

1.5.5.2 **SCOPE:** This rule governs the use of all state-owned passenger
aircraft operated by the general services department.
[1.5.5.2 NMAC – Rp, GSD 93-201.1, 2/28/05]

1.5.5.3 **STATUTORY AUTHORITY:** Chapter 135, Laws of 1994,
Section 3.B.(1) through (7); Section 3.C.; and Section 4.
[1.5.5.3 NMAC – Rp, GSD 93-201.2, 2/28/05]

1.5.5.4 **DURATION:** Permanent.
[1.5.5.4 NMAC – N, 2/28/05]

1.5.5.5 **EFFECTIVE DATE:** February 28, 2005, unless a later date is
cited at the end of a section.
[1.5.5.5 NMAC – Rp, GSD 93-201, 2/28/05]

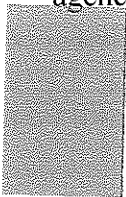

1.5.5.6 **OBJECTIVE:** The purpose of this rule is to regulate the use of
state passenger aircraft and to ensure their efficient and cost effective use.
[1.5.5.6 NMAC – Rp, GSD 93-201.3, 2/28/05]


1.5.5.7 **DEFINITIONS:** As used in this rule:

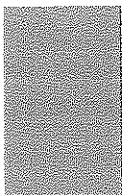
A. **agency** means the state, its branches, departments, boards,
commissions, instrumentalities, political subdivisions, including educational institutions;

B. **agency travel coordinator** means the individual assigned by an
agency head or designee who is responsible for providing air travel information to TSD;

C. **authorized passenger** means an individual who is permitted to
occupy a state aircraft in furtherance of official state business or a
person who has received prior authorization from the TSD director
to occupy a state aircraft; examples of authorized passengers
include but are not limited to:

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- (1) elected or appointed state government officials;
 - (2) law enforcement officers;
 - (3) persons acting on behalf of or in service of a state governmental
entity in any official capacity, whether with or without
compensation;
 - (4) persons in the custody or care of the state; and,
 - (5) licensed foster parents providing care for children in the custody of
the state.

- D. **ASB** means the aviation services bureau of the transportation services division of the general services department;
- E. **crew** means any passenger who has any officially assigned duties involved in the operation of the aircraft; crew members include, but are not limited to:
- (1) check pilot;
 - (2) co-pilot;
 - (3) FAA designated flight examiner;
 - (4) flight attendant
 - (5) flight engineer;
 - (6) flight examiner;
 - (7) flight instructor;
 - (8) load-master;
 - (9) mechanic;
 - (10) navigator; or,
 - (11) pilot;
- F. **coverage** means the liability, hull, and medical insurance on state aircraft;
- G. **duties** as defined in the Tort Claims Act means performing any official duties which a public employee is requested, required or authorized to perform by the governmental entity regardless of the time and place of performance;
- H. **emergency** means a condition which creates a threat to public health, welfare, or safety such as may arise because of floods, epidemics, riots, equipment failures, or similar events;
- I. **F.A.A.** means the federal aviation administration or its counterpart in a foreign country having jurisdiction over civil aviation;
- J. **federal aviation regulations** means the body of regulations governing civil aviation in the United States or the equivalent body of regulations governing civil aviation in a foreign country;
- K. **fleet** means aircraft operated and maintained by the general services department.
- L. **fleet average cost** is the average hourly cost of operating the fleet; the average cost is determined by combining overhead and maintenance costs incurred of the fleet and its crew in a fiscal year; the total is then divided by the total number of aircraft hours flown in that fiscal year;
- M. **GSD** means the general services department;
- N. **passenger** means any authorized person or persons, including crew, while in, or entering a state aircraft for the purpose of riding or flying therein, or exiting the aircraft during or following a flight or attempted flight;
- O. **RMD** means the risk management division of the general services department;
- P.  **secretary** means the cabinet secretary of the general services department;



- Q. **state aircraft** means any state-owned aircraft used primarily to transport passengers;
- R. **state employee** means any person who has been elected to, appointed to, or hired for any state office and who receives compensation in the form of salary or is eligible for per diem and mileage;
- S. **TSD** means the transportation services division of the general services department;
- T. **director** means the director of the transportation services division.

[1.5.5.7 NMAC – Rp, GSD 93-201.4, 2/28/05]

1.5.5.8 **USE OF STATE-OWNED AIRCRAFT:**

- A. **for official use only.** State aircraft shall be used only for official purposes and in the most cost effective manner practicable.
- B. **By authorized persons only.** Only authorized persons may be transported on state aircraft. The state assumes no liability for any passenger who is not an authorized person as defined in Subsection C. of 1.5.5.7 NMAC.
- C. **Use guidelines.** The following guidelines shall be applied to determine whether a state aircraft shall be scheduled for a proposed trip by a governmental agency, board, or commission.
 - (1) **Cost effectiveness.** The user agency and the aviation services bureau shall consider the cost of the flight, location, time required to accomplish mission, cost of alternative transportation, and cost of users' time;
 - (2) **Occupancy.** A minimum of three official passengers shall be on any flight unless appropriate written justification is submitted to and approved by the secretary.
 - (3) **Emergencies.** The secretary or the secretary's designee shall have the authority to waive cost effectiveness or occupancy guidelines in emergencies when failure to use state aircraft would threaten:
 - (a) the functioning of government;
 - (b) the preservation or protection of property; or
 - (c) the health or safety of any person.
 - (4) **Permitted areas of use.** State aircraft shall be flown only within the territory specified in the state's insurance coverage. Questions should be referred to the risk management division of the general services department.

[1.5.5.8 NMAC – Rp, GSD 93-201.5, 2/28/05]

1.5.5.9 **SCHEDULING OF STATE AIRCRAFT:**

- A. **Role of aircraft control center.**
 - (1) **Authority:** Pursuant to Section 15-3-31 NMSA 1978, the department maintains an aircraft control center.
 - (2) **Statutory duties:** The aircraft control center shall maintain records of all flights made by state aircraft including a preflight report of

- anticipated time of departure and arrival for each flight, name of the pilot and each passenger, the destination and intermediate stops, and a post-flight report of actual departure and arrival times.
- B. **Governor and elected officials.** The governor and other state elected officials of the state of New Mexico shall have priority in the use of state aircraft. Except for the governor, who shall have bumping rights on all scheduled flights, elected officials shall be scheduled on a first-come, first-served basis.
 - C. **Other state officials and employees.** Non-elected state employees, officers, and board members shall be scheduled on a first-come, first-served basis except in cases involving emergencies or as provided in Subsection D, below. The secretary shall determine the validity of emergency requests.
 - D. **Aircraft with special equipment.** The aerial photo unit of the state transportation department shall have first priority, including bumping rights, for the scheduling of any aircraft specially equipped for aerial photography.
 - E. **Timeliness of scheduling.** All flight requests shall be scheduled as far in advance as possible.
 - F. **Training and maintenance.** The ASB bureau chief shall schedule pilot leave and training, as well as normal aircraft maintenance, as far in advance as possible. Scheduled periods of aircraft non-availability will be entered on the scheduling system at the time they are scheduled.
 - G. **Right to Refuse Scheduling.** The secretary may refuse any request to schedule a state aircraft as provided under Chapter 15, Article 9 NMSA 1978 (Section 3.C. of Chapter 135, Laws of 1994).
 - H. **Prerogatives of Pilot in Command.** Any pilot in command of a state aircraft may refuse to fly a scheduled trip if, in his or her opinion, conducting such a flight creates an unsafe condition inconsistent with his or her responsibilities as pilot in command under Part 91 of the federal aviation regulations.

[1.5.5.9 NMAC – Rp, GSD 93-201.6, 2/28/05]

1.5.5.10 RESPONSIBILITIES OF USER AGENCIES AND EMPLOYEES:

- A. **Ground transportation.** Users shall arrange for their own ground transportation to and from the airport.
- B. **Boarding requirements.** Any passenger scheduled on a flight should be at the airport for check-in at least fifteen minutes prior to departure. If a passenger misses a flight, the passenger's agency will be charged its share of the trip whether flown or not.
- C. **Courier or package service.** Any agency requesting courier service to assist in the conduct of official business (specifically, items which are not under the responsibility of an employee of that agency on the same flight) will be responsible for delivery to and

loading of the item at the destination airport. The size and weight of the item must be cleared with the pilot in command of the flight at the time the service is scheduled.

- D. Accounts receivable.** The ASB requires the customer to maintain its accounts receivable current thirty days or less. The ASB shall assess a one and one-half percent (.015%) per month late payment penalty fee on accounts over thirty-days past due. The ASB may take action to refuse and/or cancel any future flight(s) if the customer is delinquent over ninety days in making payment.

[1.5.5.10 NMAC – Rp, GSD 93-201.8, 2/28/05]

1.5.5.11 CONDUCT OF PASSENGERS:

A. Smoking. Smoking in, or within fifty (50) feet of, state aircraft is prohibited.

B. Alcohol. Consumption of alcoholic beverages in state aircraft is prohibited.

C. Seat belts. Passengers shall wear seat belts at all times while seated in state aircraft.

- D. Conduct of passengers.** A passenger, whose behavior, in the opinion of the pilot in command of a flight, constitutes a detriment to the safe conduct of the flight, shall be denied permission to board the aircraft and shall be subject to charge for his or her proportionate share of the trip's cost.

[1.5.5.11 NMAC – Rp, GSD 93-201.9, 2/28/05]

1.5.5.12 REPORTING OF FLIGHTS: All flight reports shall be filed with the secretary or the secretary's designee and the aircraft control center within 48 hours of completion.

[1.5.5.12 NMAC – Rp, GSD 93-201.10 2/28/05]

1.5.5.13 APPEAL OF CHARGES:

A. Charges for trips not flown. Charges for aircraft use assessed to an agency under the operation of Subsection B of 1.5.5.10 NMAC or Subsection D of 1.5.5.11 NMAC, above, may be appealed in writing to the secretary, who shall render a decision as to the appropriateness of the charges within thirty (30) days of receipt of the appeal.

B. Disputed charges. All other disputed charges for aircraft services may be appealed to the secretary or the secretary's designee in writing within thirty days of the invoice or statement, whichever is later. The secretary or the secretary's designee shall render a decision as to the appropriateness of the charges within 30 days of receipt of the appeal. Amounts not expressly under appeal shall be deemed payable within thirty (30) days of the statement date.

[1.5.5.13 NMAC – Rp, GSD 93-201.11 2/28/05]

1.5.5.14

RATES:

- A. Establishment of rates.** The aviation services bureau shall be responsible for the establishment of prospective hourly rates and other associated use charges for state passenger aircraft on or before July 1 of each year. Rates shall be promulgated by memorandum.
- B. Included costs.** Rates shall be sufficient to offset the estimated costs of overhead, maintenance, fuel and depreciation of ASB state aircraft.
- C. Equalization of rates.** Rates shall be established based on fleet average cost.
- D. Retroactive adjustment of rates.** On June 30, 1995 and each year thereafter, the aviation services bureau shall compute an actual fleet average cost for fleet operations during that fiscal year. In the event revenues from use of state aircraft exceed the actual fleet cost, the bureau shall issue each user agency a credit equal to the difference between the prospective hourly rate and the actual fleet average cost for its use in that fiscal year. Such credits shall be redeemable by June 30 of the following year only for aircraft use. Unused credits shall be extinguished on that date.

[1.5.5.14 NMAC – Rp, GSD 93-201.12 2/28/05]

HISTORY of 1.5.5 NMAC:

Pre-NMAC History:

The material in this part is derived from that previously filed with the commission of public records – state records center and archives as:

DFA 67-7 Central Aircraft Schedule, filed 9/11/67;

GSD 84-201 State Aircraft Scheduling And Reporting, filed 4/4/84;

GSD 93-201 State Owned Aircraft Regulations; filed 6/23/93;

GSD 94-201 Aviation Services Bureau Aircraft Use Regulations, filed 8/9/94.

History of Repealed Material:

GSD 94-201 Aviation Services Bureau Aircraft Use Regulations (filed 8/9/94) repealed 2/28/05.

Other History:

GSD 94-201 Aviation Services Bureau Aircraft Use Regulations (filed 8/9/94) was replaced by 1.5.5 NMAC,

Aviation Services Bureau Aircraft Use Regulations, effective 2/28/05.