

**This is an amendment to 18.3.2 NMAC, Sections 8, 9 and 10 effective 01/30/2018.**

**18.3.2.8 OPERATING AUTHORITY REQUIRED:** The director shall determine which type of operating authority is appropriate based on the attributes of the type of service the applicant proposes to provide. The commission may at any time determine whether an operating authority is appropriate for the type of service a motor carrier is providing.

- A.** A warrant is required for:
- (1) charter services;
  - (2) towing services;
  - (3) repossession services using towing equipment; or
  - ~~(4) commuter services; or~~

~~(5)~~ (4) transportation of property, except that a person licensed pursuant to the Thanatopractice Act, Section 61-32-1 et seq. NMSA 1978 is not required to obtain a warrant for the transportation of cadavers.

- B.** A certificate or permit is required for:
- (1) municipal or general taxicab services;
  - (2) scheduled or general shuttle services;
  - (3) ambulance service;
  - (4) household goods services; or
  - (5) specialized passenger services; specialized passenger service includes tour and

sightseeing services, non-emergency medical transportation services, and limousine services.

[18.3.2.8 NMAC - Rp, 18.3.2.8 NMAC, 2/13/2015; A, 01/30/2018]

**18.3.2.9 LIMITATIONS ON PASSENGER SERVICES:**

- A. General shuttle services.** A general shuttle service:

(1) may not provide municipal or general taxicab services, ambulance services, specialized passenger services, or household goods services; and

(2) may use chauffeur-driven luxury motor vehicles to provide general shuttle service.

- B. Charter services.** A charter service:

(1) may not hold itself out as a full service or general service motor carrier;

(2) may not provide full service or general service;

(3) may not use the terms bingo bus service, commuter service, limousine service, non-emergency medical transport service, shared ride service, shuttle service, tour and sightseeing service, taxicab service, general service, full service or terminal shuttle service in its business name, markings on motor vehicles, or advertising, except as permitted by Subsection D of Section 65-2A-15 NMSA 1978;

(4) may only provide round-trip transportation of passengers;

(5) may not charge rates that apply to each individual passenger;

(6) may not use chauffeur-driven luxury motor vehicles to provide charter services, except when providing charter service pursuant to contracts with government agencies;

(7) may not solicit business on the streets;

(8) shall enter into a single prearranged written contract for charter services; such contract shall not be arranged, accepted, entered into or paid for with or through the driver of the motor vehicle; and

- (9) may only provide charter service to a group of persons (two or more).

- ~~[C. Commuter service. A commuter service:~~

~~(1) may not provide general services or full services; and~~

~~(2) may not use chauffeur-driven luxury motor vehicles to provide commuter service.~~

- ~~[D.] C. Limousine service. A limousine service:~~

(1) may not provide full services, general shuttle services, general taxicab services, or household goods services;

(2) may not charge rates that apply to each individual passenger;

(3) may not solicit business on the streets; and

(4) shall enter into a contract for limousine service in advance of providing the service; such contract shall not be arranged, accepted, or entered into with or through the driver of the motor vehicle.

- ~~[E.] D. Non-emergency medical transport service. A non-emergency medical transport service:~~

(1) may not provide full services, general shuttle services, general taxicab services, or household goods services;

(2) may only transport passengers who do not require medical intervention to maintain their level of response, airway, breathing and circulatory status, with the exception of self-administered oxygen not to exceed six liters per minute via a nasal cannula; the oxygen container must be secured in accordance with other state and federal laws; and

(3) may not transport passengers that require medical monitoring or medical intervention.

[F] **E. Scheduled shuttle service.** A scheduled shuttle service:

(1) may not provide ambulance service, municipal or general taxi service, specialized passenger service, or household goods service;

(2) may solicit business at scheduled stops on its regular route or may prearrange to provide service; and

(3) may use chauffeur-driven luxury motor vehicles to provide shuttle service.

[G] **F. Municipal taxicab service.** A municipal taxicab service:

(1) may not provide ambulance service, scheduled or general shuttle service, specialized passenger service, or household goods service;

(2) shall charge metered rates based on one charge for the first person and an additional small fixed charge for each additional person, or may charge, at the passenger's informed option, a predetermined calculated full fare based on dropflag and mileage component rates as provided by tariff, and may use surge pricing as provided by tariff;

(3) shall grant exclusive direction to the first person engaging the taxicab service for metered carriage;

(4) may provide one-way transportation of passengers;

(5) may solicit business on the streets or may prearrange to provide service;

(6) may not use chauffeur-driven luxury motor vehicles to provide taxicab service; and

(7) except for hailed or for pre-arranged service hereby defined as "any call requesting service made 30 minutes or longer before service is required" may only respond to calls for service that are dispatched by the taxicab service.

[H] **G. General taxicab service.** A general taxicab service:

(1) may not provide ambulance service, scheduled or general shuttle service, specialized passenger service, or household goods service;

(2) shall charge metered rates based on one charge for the first person and an additional small fixed charge for each additional person, or may charge, at the passenger's option, a predetermined calculated full fare based on dropflag and mileage component rates as provided by tariff, and may use surge pricing as provided by tariff;

(3) shall grant exclusive direction to the first person engaging the taxicab service for metered carriage;

(4) may provide one-way transportation of passengers;

(5) may solicit business on the streets or may prearrange to provide service;

(6) may not use chauffeur-driven luxury motor vehicles to provide taxicab service; and

(7) except for hailed or pre-arranged service (defined as "any call requesting service made 30 minutes or longer before service is required), may only respond to calls for service that are dispatched by the taxicab service.

[I] **H. Tour and sightseeing service.** A tour and sightseeing service:

(1) may not provide full services, general shuttle services, general taxicab services, or household goods services; and

(2) may use chauffeur-driven luxury motor vehicles to provide tour and sightseeing service.

[18.3.2.9 NMAC - Rp, 18.3.2.9 NMAC, 2/13/2015; A, 11/30/2016; A, 01/30/2018]

**18.3.2.10 CONTENTS OF APPLICATIONS FOR A WARRANT:** An applicant for a warrant shall file with the commission an application containing the following information and documents:

A. the applicant's name;

B. if the applicant is a sole proprietor or a partnership, the applicant's social security number for purposes of verifying parental responsibility act compliance;

C. each and all of the applicant's doing business as (d/b/a) names, if applicable;

D. the applicant's principal place of business within the state of New Mexico and mailing address, and, for a towing service, the mailing and physical address of the storage facility and office, if different from those of the principal place of business;

- E. the applicant's business telephone number;
  - F. the applicant's electronic mail address, if applicable;
  - G. the applicant's combined reporting system (CRS) number obtained from the New Mexico taxation and revenue department;
  - H. if the applicant is a corporation or limited liability company, evidence that the applicant is authorized by the office of the secretary of state to do business in New Mexico and that it is in good standing in New Mexico;
  - I. ~~if the applicant is a commuter service, a description of the area to be served;~~
  - ~~J.~~ if the applicant is a towing service providing non-consensual tows, a proposed tariff meeting the requirements of 18.3.6 NMAC and Sections 65-2A-20 and 21 NMSA 1978;
  - ~~K.~~ J. an appointment of an agent for service of process;
  - ~~L.~~ K. a list of all equipment to be used by the applicant, including all equipment leases filed with and approved by the commission in accordance with these rules;
  - ~~M.~~ L. for each piece of equipment, an annual inspection form completed by a qualified inspector within the preceding 12 months that shows that each motor vehicle proposed to be operated by the applicant meets the safety requirements of the federal motor carrier safety regulations;
  - ~~N.~~ M. a list of drivers and drivers license information for each driver including state of issuance, license number, and class of license; a legible copy of each driver's license; a legible copy of each driver's motor vehicle record received from the driver licensing agency of the state or states within which the driver is licensed; and a legible copy of each driver's medical examiner's certificate as required by 49 CFR 391.43(g);
  - ~~O.~~ N. the applicant's written statement certifying that all drivers meet the driver qualifications of 18.3.4 NMAC - Safety Requirements, and that the applicant will maintain driver qualification files on each driver;
  - ~~P.~~ O. the applicant's U.S. DOT safety rating, if it has one;
  - ~~Q.~~ P. proof of public liability insurance in accordance with 18.3.3 NMAC - Financial Responsibility;
  - ~~R.~~ Q. if the applicant is a towing service, proof of garage keepers and on the hook liability insurance as required by 18.3.3.11 NMAC;
  - ~~S.~~ R. a copy of either a certificate of workers' compensation insurance or a certificate of exemption from the workers' compensation administration; ~~(commuter services shall not be required to file a certificate for volunteer drivers but shall file the appropriate certificate for drivers who are employees);~~
  - ~~T.~~ S. the applicant's written statement certifying that it has developed a drug and alcohol testing program that will meet the requirements of 49 CFR Parts 40 and 382; ~~[or, if the applicant is a commuter van pool, a certification that it has a program providing for an initial drug test for anyone seeking to be a commuter service driver;]~~
  - ~~U.~~ T. a copy of the applicant's written preventive maintenance program for its motor vehicles as required by 18.3.4.11 NMAC;
  - ~~V.~~ U. a contact person, telephone number and email address for the commission to use in the event of a question, inquiry or complaint;
  - ~~W.~~ V. the verified oath of the applicant pursuant to Subsection MMM of Section 65-2A-3 NMSA 1978 attesting that all statements in the application are true and correct;
  - ~~X.~~ W. the application fee required by Section 65-2A-36 NMSA 1978; and
  - ~~Y.~~ X. a statement disclosing any other operating authority(ies) owned or operated by the applicant including any partial interest in any other operating authority(ies), and certifying that the operating authority sought in the application does not duplicate the operating authority of the same kind and for the same territory already held by the motor carrier.
- [18.3.2.10 NMAC - Rp, 18.3.2.11 NMAC, 2/13/2015; A, 3/14/2017 A, 01/30/2018]