

NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Notice of Promulgation of Rules

Notice is hereby given in accordance with section 1043(b) of the Charter of the City of New York (“Charter”) that the Taxi and Limousine Commission (“TLC”) promulgates rules governing retirement rules for black cars and creating an incentive to use vehicles that meet clean air for-hire vehicle standards as black cars.

These rules are promulgated pursuant to sections 1043 and 2303(b)(11) of the Charter and section 19-503 of the Administrative Code of the City of New York.

These rules were published on August 10, 2010, for public comment in The City Record. On September 16, 2010, a public hearing was held by the TLC at its offices at 40 Rector Street, 5th Floor, New York, New York 10006. Pursuant to section 1043(e)(1)(c) of the Charter, these rules will take effect 30 days following publication in The City Record.

New material is underlined.

[Material inside brackets indicates deleted material.]

Section 1. Section 6-09 of Chapter 6 of Title 35 of the Rules of the City of New York is amended to read as follows:

§6-09 [Black Car Vehicle Specifications] Black Car Service: Line Work.

(a) Beginning on January 1, 2010, no vehicle that is the subject of a new application for a for-hire vehicle permit shall be affiliated with a black car base unless the for-hire vehicle meets either the requirements of an accessible vehicle pursuant to section 6-07(f) of this chapter or section 3-03.2 of this title, or has a minimum city rating of twenty-five (25) miles per gallon as labeled pursuant to title 49, section 32908 of the United States Code and regulations promulgated pursuant thereto. For purposes of this subdivision, an application for a for-hire vehicle permit after a previous permit has expired will be considered a new application. For-hire vehicles that are affiliated with luxury limousine or livery bases are not subject to the requirements of this subdivision.

(b) Beginning on January 1, 2011, no vehicle that is the subject of a new application for a for-hire vehicle permit shall be affiliated with a black car base unless the for-hire vehicle meets either the requirements of an accessible vehicle pursuant to section 6-07(f) of this chapter or section 3-03.2 of this title, or has a minimum city rating of thirty (30) miles per gallon as labeled pursuant to title 49, section 32908 of the United States Code and regulations promulgated pursuant thereto. For purposes of this subdivision, an application for a for-hire vehicle permit after a previous permit has expired will be considered a new application. For-hire vehicles that are affiliated with luxury limousine or livery bases are not subject to the requirements of this subdivision.

(c) Only black car bases may dispatch vehicles to do line work and only for-hire vehicles that are affiliated with black car bases may perform line work.

Section 2. Section 6-10 of Chapter 6 of Title 35 of the Rules of the City of New York is amended to read as follows:

§6-10 [Affiliation with Black Car Bases] Retirement of For-Hire Vehicles in Black Car Service.

(a) [All for-hire vehicles affiliated with black car bases that are model year 2001 or earlier must be retired from black car service no later than the expiration dates of their for-hire vehicle permits on and after January 1, 2010.

(b) All for-hire vehicles affiliated with black car bases that are model year 2003 or earlier must be retired from black car service no later than the expiration dates of their for-hire vehicle permits on and after January 1, 2011.

[(c)] (b) All for-hire vehicles affiliated with black car bases that are model year 2005 or earlier must be retired from black car service no later than the expiration dates of their for-hire vehicle permits on and after January 1, 2012.

[(d)] (c) All for-hire vehicles affiliated with black car bases that are model year 2006 or earlier must be retired from black car service no later than the expiration dates of their for-hire vehicle permits on and after January 1, 2013; provided, however, a for-hire vehicle that is six model years old upon its permit expiration on and after January 1, 2013, shall not be affiliated with a black car base after one year following such renewal].

[(e)] (d) All for-hire vehicles affiliated with black car bases that are [seven (7)] six model years old or older and are not specified in subdivisions (a), (b), or (c) [or (d)] of this section must be retired from black car service no later than the expiration dates of their for-hire vehicle permits on and after January 1, 2014 [and every year thereafter; provided that a for-hire vehicle that is [six] five model years old upon its permit renewal on or after January 1, 2014 shall not be affiliated with a black car base after one year following such renewal].

(e) All for-hire vehicles affiliated with black car bases that are five model years old or older and are not specified in subdivisions (a), (b), (c) or (d) of this section must be retired from black car service no later than the expiration dates of their for-hire vehicle permits on and after January 1, 2015 and every year thereafter.

(f) [A for-hire vehicle affiliated with a black car base which has reached its retirement date must be retired from black car service regardless of whether it passes the New York State Department of Motor Vehicle inspection.] (1) Notwithstanding the provisions of subdivisions (a) though (e) of this section 6-10, beginning on January 1, 2011, the retirement date of any vehicle licensed to operate in black car service and affiliated with a black car base that is a level one clean air for-hire vehicle is extended for an additional two model years or that is a level two clean air for-hire vehicle is extended for an additional one model year.

(2) A level one clean air for-hire vehicle is one which receives an air pollution score of 9.5 or higher from the United States Environmental Protection Agency (EPA) or its successor agency and is estimated to emit 5.0 tons or less of equivalent carbon dioxide per year by the United States Department of Energy (DOE) or its successor agency, provided that such vehicle is powered by the fuel for which such vehicle meets the above-specified standards; and a level two clean air for-hire vehicle is one which receives an air pollution score of 9.0 or higher from the EPA or its successor agency and is estimated to emit 6.4 tons or less of equivalent carbon dioxide per year by the DOE or its successor agency and that does not meet the definition of a level one clean air for-hire vehicle, provided that such vehicle is powered by the fuel for which such vehicle meets the above-specified standards.

[(f)] (g) A for-hire vehicle affiliated with a black car base which has reached its retirement date must be retired from black car service, regardless of whether it passes the New York State Department of Motor Vehicle inspection.

Section 3. Subdivision (g) of Section 6-12.1 of Chapter 6 of Title 35 of the Rules of the City of New York is amended, to read as follows:

§6-12.1 Additional Conditions of Operation of For-Hire Vehicles and Bases.

A base owner and a for-hire vehicle owner shall each be separately and individually responsible for compliance with the following provisions and liable for penalties for violation thereof.

(g)[(1)] To be affiliated with a black car base, a vehicle [owned or leased by a new applicant, beginning January 1, 2010, must meet the requirements set forth in section 6-09 and], beginning January 1, 2011, must meet the requirements set forth in section 6-10 of this chapter. [For purposes of this paragraph (g)(1), a “new applicant” is the owner or lessee of a vehicle who does not hold a current for-hire vehicle permit for that vehicle.

(2) To be affiliated with a black car base, a vehicle owned or leased by a renewal applicant, beginning January 1, 2011, must meet the requirements set forth in section 6-10 of this chapter. For purposes of this paragraph (g)(2), a “renewal applicant” is the owner or lessee of a vehicle who holds a current for-hire vehicle permit for that vehicle and is affiliated with a black car base when the application is submitted.]

Section 4. Section 6-22 of Chapter 6 of Title 35 of the Rules of the City is amended by amending the penalty previously labeled §6-09(c) as follows:

<u>Rule</u> <u>No.</u>	<u>Penalty</u>	<u>Personal</u> <u>Appearance</u> <u>Required</u>
§6-09[(c)]	\$250 – first violation	No
	\$500 – second violation within 24 months	No
	Revocation - third violation within 24 months	Yes

Statement of Basis and Purpose of Rules

In April 2008, the Taxi and Limousine Commission (TLC) promulgated rules requiring new black cars, except for wheelchair accessible vehicles, to achieve fuel efficiency standards of 25 mpg city rating in 2009 and 30 mpg city rating in 2010. The rules were promulgated with the express understanding that, before the rules became effective, the TLC would arrange for financing to assist black car owners in complying with the rules.

After promulgation of those rules, the economic downturn precipitated by the 2008 financial crisis made it impossible for the TLC to arrange the promised financing. As a result, the TLC three times deferred the effective date of the April 2008 rules – once by rulemaking and twice by industry notice.

The continued unavailability of a financing package for black car owners requires the TLC to devise a new approach. These promulgated rules repeal the 25 and 30 mpg requirements for black cars. Instead, the promulgated rules revise the provisions for retirement of black cars, in three respects.

- Phase in a maximum black car vehicle age of five model years;
- Allow two additional model years for black cars that meet the level one clean air for-hire vehicle standard; and
- Allow one additional model year for black cars that meet the level two clean air for-hire vehicle standard.

The definitions of “level one” and “level two” vehicles are taken from the definitions of “level one clean air taxicab” and “level two clean air taxicab” in section 19-535(a) of the New York City Administrative Code.