

NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Notice of Public Hearing and Opportunity to Comment on Proposed 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”) proposes amended rules governing certain aspects of the TLC.

These rules are proposed pursuant to sections 1043 and 2303 of the Charter and section 19-503 of the Administrative Code of the City of New York. These proposed rules were not included in the TLC’s regulatory agenda for Fiscal Year 2009 because the need for such rules was not anticipated at the time the regulatory agenda was published.

A public hearing on these proposed rules will be held by the TLC at its offices at 40 Rector Street, 5th Floor, New York, New York 10006 on February 20, 2009 at 2:30 p.m. Persons wishing to testify at the hearing may notify the TLC in advance, either in writing or by telephone to the TLC’s Office of Legal Affairs at the address and telephone given below. Any request for a sign language interpreter or other form of reasonable accommodation for a disability at the hearing must be submitted to the Office of Legal Affairs in writing, by telephone, or by TTY/TDD no later than February 13, 2009.

The public hearing will not be a meeting of the Commissioners of the Taxi and Limousine Commission and will be chaired by the TLC’s Deputy Commissioner for Legal Affairs. Persons who wish to speak at the hearing will be strictly limited to three minutes of speaking time. Persons who wish to comment on the proposed rules are urged to submit written comments. There is no page limit on written comments.

Written comments in connection with these proposed rules should be submitted to the Office of Legal Affairs and must be received no later than February 16, 2009 to:

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Section 1. It is hereby proposed to amend Title 35 of the Rules of the City of New York by adding a new chapter thereto to read as follows:

New Material is underlined.

Chapter 2

RULES GOVERNING THE TAXI & LIMOUSINE COMMISSION

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SUBCHAPTER A: JURISDICTION AND POWERS OF THE COMMISSION

§2-01 Creation and Purpose of the Commission

Pursuant to §§2300 and 2301 of the New York City Charter, there will be a nine-member New York City Taxi and Limousine Commission (the “Commission” or the “TLC”) whose overall purpose will be to continue, further develop, and improve taxi and limousine service in New York City. To promote public comfort and convenience, and taking into account the overall public transportation network of the City, the Commission will establish an overall public transportation policy governing for-hire transportation services in the City, including taxi, limousine, paratransit and commuter van services.

§2-02 Jurisdiction of the Commission

The Commission will issue licenses and adopt and enforce rules regulating the business and industry of the following for-hire transportation services in the City:

- (a) Medallion Taxicab Service
- (b) For-Hire Vehicle Service (including Livery, Black Car and Luxury Limousine services)
- (c) Paratransit Service
- (d) Commuter Van Service

§2-03 General Powers of the Commission

- (a) Issuance of Licenses. The TLC has the power to issue and regulate Licenses or Authorizations that include, but need not be limited to the following:
 - (1) Medallion Taxicab Driver License
 - (2) Medallion Taxicab Owner’s License
 - (3) Stand-by Taxicab Vehicle License
 - (4) Medallion Taxicab Broker License
 - (5) Medallion Taxicab Agent License
 - (6) Taximeter Business License
 - (7) Taximeter Manufacturers Authorization

- (8) For-Hire Vehicle Base License
 - (9) For-Hire Vehicle Driver License
 - (10) For-Hire Vehicle License
 - (11) Paratransit Base License
 - (12) Paratransit Driver License
 - (13) Paratransit Vehicle License
 - (14) Commuter Van Service Authorization
 - (15) Commuter Van Driver License
 - (16) Commuter Van Vehicle License
- (b) *Establishment of Licensing Standards.* The Commission has the power to define and adopt licensing standards for each License that is set forth in these Rules.
- (c) *Maintenance of Licensing Standards.* The Commission will not issue a License to any Applicant or will suspend or revoke the License of any Licensee if any such Applicant or Licensee does not meet the licensing standards established in these Rules.

§2-04 Specific Powers and Duties of the Commission

- (a) *Powers and Duties with Respect to Regulating*
- (1) Formulate and adopt rules reasonably designed to carry out the purposes of the Commission.
 - (2) Set and enforce standards and conditions of service.
 - (3) Establish and enforce standards of safety, comfort, convenience, operational efficiency, and compliance with good public policy in the design of vehicles and auxiliary equipment.
 - (4) Establish and enforce standards to ensure all Licensees are and remain financially stable.
 - (5) Establish and enforce standards for insurance and minimum coverage.
 - (6) Establish and enforce standards for record-keeping and reporting.

- (7) Develop and implement a broad public policy of transportation as it pertains to the forms of public transportation regulated by the Commission.
 - (8) Encourage and provide procedures to encourage innovation and experimentation relating to type and design of equipment, modes of service and manner of operation.
 - (9) Provide assistance to the public transportation businesses and industries regulated by the Commission to continually develop and improve public service, safety, and convenience, including assistance in securing federal and state grants.
- (b) *Powers and Duties with Respect to Enforcement*
- (1) The Commission will establish an administrative tribunal to adjudicate charges of violation of provisions of the Administrative Code of the City of New York and implementing Rules and regulations.
 - (2) The operations of such administrative tribunal will be governed by Chapter 5, §19 of the Administrative Code of City of New York, and Title 35 of the Rules of the City of New York.
- (c) *Powers and Duties with Respect to Rate-Setting*
- (1) The Commission will have the power and duty to set and enforce rates of fare to be charged and collected.
 - (2) The Commission will prescribe, revise and regulate reasonable rates of fare that may be charged and collected for each type of service rendered.
 - (3) In determining the rates of fare, the Commission may consider all relevant facts, including the following:
 - (i) The time and distance of travel;
 - (ii) The character of the service provided;
 - (iii) The gross revenues derived from operation;
 - (iv) The net return derived from operation;
 - (v) The expenses of operation including the income of drivers or operators;

- (vi) The return upon capital actually expended and the need to reserve some income for surplus and contingencies;
 - (vii) The number of passengers transported;
 - (viii) The effect of fares on the public and in relation to the fares for other forms of public transportation;-
 - (ix) The fares and practices with respect to similar services in other cities of the United States.
- (4) The Commission may not change the rates of fare except after holding a public hearing at which evidence will be taken and considered.

SUBCHAPTER B: PETITIONS TO INITIATE RULEMAKING

§2-11 Scope of this Subchapter

This Subchapter establishes the process by which any person may petition the Commission to consider adoption of a new Rule or Rules.

§2-12 Penalties

This Subchapter is informational in nature and does not provide for any penalties.

§2-13 Definitions Specific to this Subchapter

Reserved

§2-14 Procedures for Submitting Petitions

- (a) Who May Petition. Any person may petition the TLC to consider the adoption of rules.
- (b) Content of Petitions. Petitions must contain the following information:
 - (1) The proposed language for the rule being proposed;
 - (2) A statement of the TLC's authority to promulgate the rule and its purpose;
 - (3) The petitioner's argument in support of adopting the rule;
 - (4) The period of time the rule should be in effect;
 - (5) The name, address and telephone number of the petitioner; and

- (6) The signature of the petitioner.
- (c) Format of Petitions
 - (1) All petitions should be typewritten.
 - (2) Until the TLC adopts a form for petitioning the adoption of a rule, the petition must be filed on plain, white letter-sized paper.
- (d) Submission of Petitions. Petitions must be mailed or delivered to the offices of the TLC at 40 Rector Street, New York, New York, 10006-1738, marked to the attention of the Chairperson.

§2-15 Procedures for Consideration of Petitions

- (a) Initial Process. When a petition submitted in proper form is received, the TLC will do the following:
 - (1) Stamp the petition with the date it was received;
 - (2) Assign the petition a processing number; and
 - (3) Forward the petition to the Chairperson, who may, at his or her discretion, either deny the petition or present the petition for consideration by the Commission.
 - (4) The Chairperson has 60 days to present the petition for consideration or deny the petition.
- (b) Denial of Petition By Chairperson
 - (1) If the Chairperson denies a petition, he or she will present copies of the petition and of the Chairperson's notice rejecting that petition to the full Commission at its next regularly scheduled session.
 - (2) At this session or anytime before the Commission's next regularly scheduled session, any Commission member may ask the Commission to consider the petition to determine whether to initiate rulemaking. The Commission will notify the petitioner if a determination is made to grant the petition.
 - (3) If no Commission member takes action on the petition, the Chairperson will notify the petitioner of the Commission's decision to deny the petition.
- (c) Consideration by the Commission

- (1) If the Chairperson does not deny the petition, he/she will notify the petitioner in writing within 60 days from the date the petition was received of the Commission's intent to grant the petition and to initiate rulemaking by a specific date.
- (2) In proceeding with rulemaking, the Commission may, at its discretion, amend or modify the language proposed by the petitioner.

§2-16 Appeal

No Appeal. The Commission's decision to deny or grant a petition is final and not subject to judicial review.

SUBCHAPTER C: PILOT PROGRAMS

§2-21 Scope of this Subchapter

- (a) As part of the development and implementation of a broad public transportation policy, Section 2303(b)(9) of the New York City Charter charges the Commission to encourage and provide for innovation and experimentation in relation to the type and design of equipment, modes of service, and manner of operation. Such experimentation through pilot programs may, for limited purposes and limited periods of time, depart from the requirements established in these Rules.
- (b) This chapter provides a regularized and transparent process for the review, approval, implementation and evaluation of proposed pilot programs.

§2-22 Penalties

This Subchapter is informational in nature and does not provide for any penalties.

§2-23 Definitions Specific to this Subchapter

Reserved

§2-24 Submission of Proposals

- (a) Any person or entity may propose a pilot program in writing to the Chairperson for purposes of testing and evaluating a proposed innovation.
- (b) Proposals for a pilot program must include the following:

- (1) A statement of the purpose or value of the proposed innovation;
- (2) A detailed description of the proposed innovation, including, as appropriate, diagrams, blueprints or images;
- (3) Information regarding the use of the proposed innovation in other jurisdictions;
- (4) Estimates of any cost and revenue impact of the proposed innovation on affected Licensee groups such as drivers and vehicle owners, on the Commission and the City, and on the public;
- (5) A description of the different ways in which the proposed innovation would depart from otherwise applicable requirements, including these Rules ;
- (6) A description of any effect the pilot program would have on the safety of operations involved in the pilot program;
- (7) The proposed duration of the pilot program;
- (8) The number of pilot program participants necessary to achieve the purpose of the proposed pilot program; and
- (9) The criteria by which the value of the innovation can be measured after implementation of the pilot program, such as cost, customer satisfaction, Licensee satisfaction, environmental impact, and safety.

§2-25 Initial Review of Proposed Pilot Programs

- (a) *Initial Review By Chairperson.* The Chairperson will perform the initial review of all pilot program proposals. The Chairperson is authorized to assemble any information, from any source, that he or she determines to be useful to the Commission in reviewing the proposal.
- (b) *Request for Modification or Resubmission.* The Chairperson may request that the proposal be modified or resubmitted to include additional information, evaluations, and inspection of prototypes, tests or other processes of any kind that may assist in the review of the proposal. The Chairperson may issue such request to the person or entity proposing the pilot program or to any other person or entity.
- (c) *Forward Proposed Pilot Program to Commission.* The Chairperson will forward a proposed pilot program to the Commission within 60 days of receipt of a completed proposal. However, during the 60-day period, the Chairperson may extend the time for forwarding the proposed pilot program.-

§2-26 Commission Review and Grounds for Rejection

- (a) Consideration By Commission. The Commission will consider all proposed pilot programs forwarded by the Chairperson and will approve or reject such programs.
- (b) Grounds for Rejection. Grounds for rejection include but are not limited to the following:
 - (1) The merits of the proposal;
 - (2) The administrative ability of the Commission or its staff to implement, monitor, or evaluate the proposed pilot program.

§2-27 Commission Approval of Proposal for Pilot Program

- (a) Resolution of Approval. Any proposed pilot program approved by the Commission will be approved by Resolution of Approval.
- (b) Contents of Resolution. Each Resolution of Approval will establish the terms governing the implementation, monitoring, and evaluation of the proposed pilot program, including but not limited to the following:
 - (1) The duration of the pilot program;
 - (2) An implementation and evaluation schedule for the pilot program, including a deadline for a final report from the Chairperson to the Commission and a deadline for initiating rulemaking action to implement changes in the Commission's rules. These should be based on the outcome of the pilot program so that the proposed innovation may continue without interruption if the Commission determines that such continuation is warranted;
 - (3) The minimum and maximum number of the pilot program's participants, if any;
 - (4) A description of the means by which the public will be notified of the proposed pilot program;
 - (5) A description of the process for selecting the participants in the pilot program;
 - (6) A statement whether a safety evaluation of the proposed pilot program will be required before or during implementation of the pilot program and, if so, a statement of how and by whom such safety evaluation must be conducted;

- (7) A statement that the pilot program participants must enter into binding agreements with the Chairperson on behalf of the Commission;
- (8) An enumeration of the criteria to be used in evaluating the proposed innovation during and after implementation of the pilot program; and
- (9) A description of any reporting requirements during and after the completion of the pilot program, including reports from the pilot program participants to the Chairperson and from the Chairperson to the Commission.

§2-28 Agreements between the Commission and the Pilot Program Participants

- (a) Agreement(s) Required. All persons or entities participating in any pilot program approved by the Commission must enter into an agreement with the Chairperson on behalf of the Commission. This agreement will govern the preparation, implementation, and evaluation of the pilot program consistent with the terms of the Commission's Resolution of approval.
- (b) Differing Agreement(s). Where a pilot program involves more than one participant, the Chairperson will determine whether the participants must enter into identical or differing agreements.
- (c) Approval by Corporation Counsel. Agreements made under this section will be subject to approval as to form by the Corporation Counsel pursuant to §394(b) of the New York City Charter.

Statement of Basis and Purpose of Rules

These rules are proposed pursuant to sections 1043 and 2303 of the Charter and section 19-503 of the Administrative Code of the City of New York. The rules are part of a project undertaken by the Taxi and Limousine Commission (“TLC”) to revise its existing rule book. The first phase of this project consists of reorganizing and redrafting TLC’s rules, to enhance their clarity and accessibility without substantive change. Accordingly, these rules are not intended to make any changes to TLC’s current policies, procedures or operations.

During this first phase of the rules revision project, all of TLC’s existing rules will be redrafted, then posted on a chapter-by-chapter basis on the TLC Web site for review and discussion by interested members of the public. Each chapter will be revised based on that discussion, then published for public comment and public hearing pursuant to the City Administrative Procedure Act (CAPA). Because this phase of the rules revision is intended to involve no substantive changes to the rules, and as announced at the Commission meeting held on August 7, 2008, public hearings will be held separately from monthly stated Commission meetings.

When this process has been completed for all TLC rules, the complete set of rules will be presented to the Commission for promulgation simultaneously with repeal of the current set of TLC rules. The revised rules will replace the existing rules compiled in chapter 35 of the Rules of the City of New York. It is anticipated that the promulgation of the revised rules and repeal of the current rules will occur in 2009.

After the first phase of its rules revision is completed, TLC will move to the second phase, which will involve the assessment of its rules for more substantive changes.

The rules proposed here are as follows:

Current Rule Chapters revised in this rule-making	Proposed Rule Chapters
Chapter 11, Rules Concerning Petitions to Initiate Rulemaking; Chapter 14, Pilot Programs. NOTE: This rulemaking also restates the substance of certain provisions of section 2303 of the New York City Charter and Chapter 5, §19 of the Administrative Code of the City of New York.	Chapter 2, Rules Governing the Taxi and Limousine Commission, including petitions for rule-making and pilot programs.