

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 adoption of rules governing minimum miles per gallon for black cars.

These rules are proposed 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 proposed rules were included in the TLC’s regulatory agenda for Fiscal Year 2008.

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 April 17, 2008, at 9:30 a.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 number given below. Any request for a sign language interpreter or other form of reasonable accommodation at the hearing for a disability must be submitted to the Office of Legal Affairs in writing, by telephone, or by TTY/TDD no later than April 11, 2008.

Written comments in connection with these proposed rules should be submitted to the Office of Legal Affairs, addressed as follows, and must be received no later than April 4, 2008.

Charles R. Fraser
Deputy Commissioner of Legal Affairs/General Counsel
Taxi and Limousine Commission
40 Rector Street, 5th Floor
New York, New York 10006
Telephone: 212-676-1117
Fax: 212-676-1102
TTY/TDD: 212-341-9569

New material is underlined.

[Material inside brackets indicates deleted material.]

Section 1. Section 6-01 of chapter 6 of Title 35 of the Rules of the City of New York is amended by adding, in alphabetical order, a new definition of “line work”, to read as follows:

Line work. Line work is a type of pre-arranged service provided pursuant to a contract with a black car base in which the dispatch and passenger assignment are completed at the point of pick up by an employee or contractor of either the black car base or the contracting party.

Section 2. Chapter 6 of Title 35 of the Rules of the City of New York is amended by adding new sections 6-09 and 6-10, to read as follows:

§6-09 Black Car Vehicle Specifications.

(a) Beginning on January 1, 2009, 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, 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 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.

§6-10 Affiliation with Black Car Bases.

(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, 2009.

(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, 2010.

(c) 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, 2011.

(d) All for-hire vehicles affiliated with black car bases that are model year 2007 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.

(e) All for-hire vehicles affiliated with black car bases that are six (6) 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, 2013 and every year thereafter; provided that a for-hire vehicle that is five model years old upon its permit renewal on or after January 1, 2013 shall not be affiliated with a black car base after one year following such renewal.

(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.

Section 3. Section 6-12 of Chapter 6 of Title 35 of the Rules of the City is, to read as follows:

§6-12 Conditions of Operation Relating to For-Hire Vehicles.

A for-hire vehicle base and a for-hire vehicle owner shall be jointly and severally responsible for compliance with the following provisions and liable for any violation thereof. No for-hire vehicle shall be used in the course of operations of a for-hire vehicle service unless the vehicle is in compliance with the following:

(p) (1) To be affiliated with a black car base, a vehicle owned or leased by a new applicant must meet the requirements set forth in sections 6-09 and 6-10 of this chapter. For purposes of this paragraph (p)(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 must meet the requirements set forth in section 6-10 of this chapter. For purposes of

this paragraph (p)(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 adding a new penalty labeled §6-09(c) as follows:

<u>Rule No.</u>	<u>Penalty</u>	<u>Personal Appearance Required</u>
§6-08(e)	\$50	No
<u>§6-09(c)</u>	<u>\$250 – first violation</u> <u>\$500 – second violation within 24 months</u> <u>Revocation - third violation within 24 months</u>	<u>No</u> <u>No</u> <u>Yes</u>
§6-11(a)	\$200 – 1,500	Yes

Statement of Basis and Purpose of Proposed Rules

Responding to requests from users of black car services for rules requiring a better performing black car fleet and imposing a maximum age on black cars, the Taxi and Limousine Commission (“TLC”) proposes rules that would amend existing TLC rules relating to black cars and black car service in three respects.

First, to create a better performing fleet, the proposed rules would provide that, beginning on January 1, 2009, applications for new TLC for-hire vehicle (FHV) permits for vehicles to be affiliated with black car bases must be for vehicles with city ratings of at least 25 miles per gallon. Beginning on January 1, 2010, such vehicles must have minimum city ratings of 30 miles per gallon.

The city gas mileage rating of a vehicle is to be determined pursuant to chapter 329 of title 49 of the United States Code and regulations promulgated pursuant thereto. Ratings for 2008 model vehicles are available at <http://www.fueleconomy.gov/feg/FEG2008.pdf>, and it is anticipated that the 2009 ratings will be available at a similar Web site.

Second, the proposed rules set a maximum age of six model years for FHV’s affiliated with black car bases. For vehicles currently in use as black cars, the rules propose a phase-in period that starts with the expiration of a vehicle’s permit beginning January 1, 2009 (for vehicles of model years 2001 or earlier), and ends with the expiration of a vehicle’s permit beginning January 1, 2013 for all for-hire vehicles in black car service.

For-hire vehicles solely affiliated with luxury and livery bases would not be subject to these minimum gas mileage requirements and vehicle retirement requirements. Vehicles that were formerly affiliated with black car bases may continue to be eligible for affiliation with livery and luxury limousine bases.

Third, to facilitate orderly dispatching, the proposed rules would provide that only FHVs affiliated with black car bases are permitted to perform line work and only black car bases are able to dispatch vehicles to do line work. Line work is defined as a type of pre-arranged service provided pursuant to a contract with a black car base in which the dispatch and passenger assignment are completed at the point of pick up by an employee or contractor of either the black car base or the contracting party. Line work involves the pre-arranged dispatch of a number of vehicles to a specified location, where typically the vehicle and driver wait in a line to be assigned to a particular passenger or passengers. The TLC finds that line work is uniquely important to black car service and therefore should be reserved to black cars.

When fully phased in, the proposed rules would yield a savings of more than \$5,000 in gasoline costs per vehicle per year. Therefore, the proposed rule would yield industry-wide savings from using less gasoline of approximately \$50,000,000 per year. This better performance would increase the economic health of the industry by decreasing black car vehicle owner and driver costs and would further benefit black car users by reducing upward pressure on black car fares.

