

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 minimum miles per gallon for 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 March 5, 2008, for public comment in the City Record. On March 20, 2008, a Notice of Public Hearing Date for these rules was published in The City Record amending the hearing date from April 10, 2008 to April 17, 2008. On April 17, 2008, a public hearing on such rules was held by the TLC at its offices at 40 Rector Street, 5th Floor, New York, New York 10006, and these rules were voted on and passed. Pursuant to section 1043(e)(1)(c) of the Charter, these rules will take effect 30 days following the publication in The City Record.

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 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, 2012; provided, however, a for-hire vehicle that is five model years old upon its permit expiration on and after January 1, 2012, 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 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 of New York is amended by adding a new subdivision (p), 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
§6-09(c)	<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 Rules

In December 2007, the Taxi and Limousine Commission (TLC) unanimously passed rules requiring new taxicabs to achieve a city mileage rating of 25 miles per gallon in October 2008, except for wheelchair accessible taxicabs. In October 2009, the standard will rise to 30 mpg. Almost 380 hybrid taxicabs were on the road when the taxicab proposal was announced last May. Now, as taxicab owners convert ahead of schedule, there are more than 975. They have proven their reliability during the three annual inspections, and the first 18 in the fleet have already logged over 200,000 miles as well as higher inspection passage rates than other vehicles. The TLC estimates that the rules will save a taxicab owner \$11,000 per year in gas costs, for industry-wide savings of roughly \$140 million per year. By 2013, virtually the entire taxicab fleet will be converted to higher mileage standards.

In February, the Mayor asked the TLC to require new black cars to meet fuel efficiency standards of 25 mpg in 2009 and 30 mpg in 2010. The promulgated rules considered today will also mandate vehicle retirement and provide protection for black car operators against competitors who operate less gasoline-efficient vehicles. To help drivers, the City has worked with the financial sector, auto dealers, and black car fleets to develop solutions that will finance the higher down payment. Pursuant to these rules, by 2013, nearly all black cars will meet the new standards. Mayor Bloomberg indicated the City's intention to complete the PlaNYC for-hire transportation initiative by working with the livery industry, again taking into account the unique aspects of that industry. The TLC's next course of action will be to develop a concrete plan to introduce similar standards for livery vehicles.

Responding to the Mayor's request, and 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 TLC promulgated rules that will amend existing TLC rules relating to black cars and black car service in three respects.

First, to create a better performing fleet, the promulgated rules 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 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 promulgated 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 provide 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 will not be subject to these minimum 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 promulgated rules provide that only FHV's 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 promulgated rules will yield a savings of more than \$5,000 in gasoline costs per vehicle per year. Therefore, the promulgated rule will yield industry-wide savings from using less gasoline of approximately \$50,000,000 per year. This better performance will increase the economic health of the industry by decreasing black car vehicle owner and driver costs and will further benefit black car users by reducing upward pressure on black car fares.

Following addresses concerns that were raised during the comment period on the proposed rules:

First, because the promulgated rules require a minimum mileage rating for black cars, a question was raised whether the rules are intended to preclude black cars with non-gasoline fueled engines. The answer is no. As technological advances continue, the TLC will continue to test and approve vehicle technologies such as hydrogen fuel-cell, clean diesel, compressed natural gas, electric battery cars, and other alternative fuel sources and technologies.

Second, a concern was expressed that black car owners may seek to avoid the obligation to convert to hybrid vehicles by re-licensing them as luxury limousines. Vehicle owners should be aware that TLC rules require that luxury limousines maintain:

- \$200,000 in personal injury protection (PIP) insurance;
- Liability insurance of \$500,000 per person; and
- Liability insurance of \$1 million per accident for a limousine that seats fewer than nine passengers, \$1.5 million per accident for a limousine that seats from nine to 15 passengers, and \$5 million per accident for a limousine that seats more than 15 passengers.

TLC staff will vigilantly enforce the luxury limousine insurance requirements as a means to prevent any attempt by black car owners to pose as luxury limousines.

Third, a concern was expressed about the applicability of the promulgated rules to black cars affiliated with TLC-licensed black car bases that are located outside New York City, but which conduct point-to-point activity within the city. To clarify, these promulgated rules apply to all black car bases that are licensed by TLC, regardless of location. Likewise, luxury limousines affiliated with bases located outside New York City that pick-up and drop-off passengers within New York City are required to comply with the higher insurance requirements for luxury limousines, listed above.

Fourth, as when the Commission adopted minimum miles per gallon rules for taxicabs last year, a concern was expressed about the availability of vehicles that meet the 30 miles per gallon requirement that will come into play for black cars in January 2010, as well as the availability of adequate vehicle financing to fund the purchase of new vehicles. The TLC and the Mayor's office, in conjunction with the New York City Investment Fund and other private partners, have arranged for financing approaches to be available. Therefore, although the TLC fully expects that vehicle availability and affordable financing will not be an issue, TLC staff will closely monitor the situation and, if changes in today's rule become necessary, will recommend appropriate amendments.

Finally, a concern was expressed that section 6-09(a) and (b) might be misconstrued to mean that renewal of a black car vehicle permit constitutes a "new application" such that the vehicle must be retired. However, section 6-09(a) and (b) provide that submission of a black car vehicle permit application *after* expiration of the previous black car vehicle permit will not constitute a timely renewal application, and therefore will constitute a new application for purposes of determining the vehicle's retirement date. A timely renewal application – meaning a renewal application submitted before the expiration of the previous permit – will not constitute a "new application."