

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 amending 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 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 not included in the TLC’s regulatory agenda for Fiscal Year 2010, because the need for them was not anticipated at the time the regulatory agenda was prepared.

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 October 21, 2010, at 10:00 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 no later than October 14, 2010.

Written comments in connection with these proposed rules must be received no later than October 18, 2010. Comments may be submitted through the NYC Rules website at www.nyc.gov/nycrules, or may be submitted to the Office of Legal Affairs at:

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: 212-676-1135
Fax: 212-676-1102
Email: tlcrules@tlc.nyc.gov

Written comments and a transcript of the public hearing will be available for public inspection at that office.

New material is underlined. [Except underlined, italicized subsection headings]
[Material inside brackets indicates deleted material.]

Section 1. It is hereby proposed that Subdivision (k) of Section 9A-04 of Chapter 9 of Title 35 of the Rules of the City of New York, relating to requirements that vehicles meet or exceed minimum city ratings of twenty-five miles per gallon or thirty miles per gallon in order to be affiliated with a Black Car Base be REPEALED.

Section 2. It is hereby proposed that a new Subdivision (b) be added to Section 9A-25, to read as follows:

§9A-25 Operations – Miscellaneous Operating Requirements

(b) Black Car Owner’s Compliance with Black Car Retirement Rules. Beginning January 1, 2011, a Black Car Owner may affiliate a Vehicle with a Black Car Base only if the Vehicle meets the retirement requirements set forth in § 9A-28(d) of this chapter.

<u>§9A-25(b)</u>	<u>Fine: \$350</u>	<u>Appearance NOT REQUIRED</u>
------------------	--------------------	--------------------------------

Section 3. It is hereby proposed that a new Subdivision (e) be added to Section 9B-25 of Chapter 9 of Title 35 of the Rules of the City of New York, to read as follows:

§9B-25 Operations – Miscellaneous Operating Requirements

(e) Black Car Base Owner’s Compliance with Black Car Retirement Rules. Beginning January 1, 2011, a Black Car Base Owner may allow a Vehicle to be affiliated with the Black Car Base only if the Vehicle meets the retirement requirements set forth in § 9A-28(d) of this chapter.

<u>§9B-25(e)</u>	<u>Fine: \$350</u>	<u>Appearance NOT REQUIRED</u>
------------------	--------------------	--------------------------------

Section 4. It is hereby proposed that Subdivision (d) of Section 9A-28 of Chapter 9 of Title 35 of the Rules of the City of New York be amended, to read as follows:

§9A-28 Vehicles – Miscellaneous Requirements and Vehicle Retirement

(d) Required Black Car [Vehicle] Retirement. All Black [Car Vehicles] Cars must be retired from Black Car service (but may be replaced) according to the following schedule:

(1) [All Black Cars, model year 2001 or earlier, must be retired no later than their first For-Hire Vehicle License expiration date on or after January 1, 2010.

(2) All Black Cars, model year [2002 or] 2003 or earlier, must be retired from Black Car service no later than their first For-Hire Vehicle License expiration date on or after January 1, 2011.

[(3)] (2) All Black Cars, model year 2004 or 2005 must be retired from Black Car service no later than their first For-Hire Vehicle License expiration date on or after January 1, 2012.

[(4)] (3) All Black Cars, model year 2006, must be retired from Black Car service no later than their first For-Hire Vehicle License expiration date on or after January 1, 2013.

[(5)] (4) On and after January 1, 2014, all Black Cars must be retired from Black Car [Service at least by] service no later than the expiration date of their For-Hire License [when] after they turn [seven] six model years old.

(i) If a Black Car turns seven model years old in the last year of its License, the Vehicle must be retired by the date of License expiration.

(ii) But if a Black Car turns seven model years old in the *first* year of its License, the Vehicle must be retired by the first anniversary of the License renewal date.

EXAMPLE: Vehicles A and B are both Model Year 2010 and become seven model years old on January 1, 2017:

Vehicle A:

- License expires on May 5, 2017
- Vehicle A must be retired from Black Car Service on May 5, 2017

Vehicle B:

- License expires May 6, 2018, having renewed on May 6, 2016
- Vehicle B must be retired from Black Car service on May 6, 2017; License continues with a new vehicle until May 6, 2018]

(5) Black Cars that are five model years old or older must be retired from Black Car service no later than the expiration dates of their For-Hire Vehicle License on and after January 1, 2015 and every year thereafter.

(6) [A For-Hire Vehicle affiliated with a Black Car Base which has reached its retirement date must be retired from Black Car service, even if it passes the New York State Department of Motor Vehicle inspection.] Notwithstanding the provisions of subdivisions (1) through (5) of this § 9A-28, 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 Clean Air Vehicle Level I is extended for an additional two years or that is a Clean Air Vehicle Level II is extended for one additional year.

(7) A Black Car that has reached its retirement date must be retired from Black Car service even if it passes the New York State Department of Motor Vehicle inspection.

STATEMENT OF BASIS AND PURPOSE

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 miles per gallon city rating in 2009 and 30 miles per gallon 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 proposed rules would repeal the 25 and 30 mpg requirements for black cars. Instead, the proposed rules would 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 years for black cars that meet the level one clean air vehicle standard; and
- Allow one additional year for black cars that meet the level two clean air vehicle standard.

The definitions of “Clean Air Vehicle Level I” and “Clean Air Vehicle Level II” are taken from the definitions of “level one clean air taxicab” and “level two clean air taxicab” in § 19-535 of the New York City Administrative Code.

The proposed rules also clarify that a black car owner and a black car base owner are separately and individually responsible for compliance with the retirement rules for vehicles affiliated with black car bases and liable for violations of the vehicle retirement rules.

The proposed rules would incorporate into the current TLC rulebook requirements originally promulgated in 2010.