

## NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

### **Notice of Public Hearing and Opportunity to Comment on Proposed Rules**

**What are we proposing?** The Taxi and Limousine Commission is considering changing its rules. The change would amend Chapter 83 (Licensing & Rules for Street Hail Livery Technology System Providers) to make certain technical and substantive changes that ensure the consistency and practicability of the LPEP rules.

**When and where is the Hearing?** The Commission will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 a.m. on Thursday, June 21, 2012. The hearing will be in the hearing room at 33 Beaver Street - 22<sup>nd</sup> Floor, New York, NY 10004.

**How do I comment on the proposed rules?** Anyone can comment on the proposed rules by:

- **Mail.** You can mail written comments to the Taxi and Limousine Commission, Office of Legal Affairs, 33 Beaver Street – 22<sup>nd</sup> Floor, New York, New York 10004.
- **Fax.** You can fax written comments to the Taxi and Limousine Commission, Office of Legal Affairs, at 212-676-1102.
- **Email.** You can email written comments to [tlcrules@tlc.nyc.gov](mailto:tlcrules@tlc.nyc.gov).
- **Website.** You can submit comments to the Taxi and Limousine Commission through the NYC rules Web site at [www.nyc.gov/nycrules](http://www.nyc.gov/nycrules).
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 212-676-1135. You can also sign up in the hearing room before the hearing begins on June 21, 2012. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** Yes, you must submit written comments by June 20, 2012.

**Do you need assistance to participate in the Hearing?** You must tell the Office of Legal Affairs if you need a reasonable accommodation of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 212-676-1135. You must tell us by Thursday, June 14, 2012.

**Can I review the comments made on the proposed rules?** A few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at the Office of Legal Affairs.

**What authorizes the Commission to make this rule?** Sections 1043 and 2303 of the City Charter and section 19-503 of the City Administrative Code authorize the Commission to make

this proposed rule. This proposed rule was not included in the Commission's regulatory agenda for this Fiscal Year because it was not contemplated when the Commission published the agenda.

**Where can I find the Commission's rules?** The Commission's rules are in title 35 of the Rules of the City of New York.

**What rules govern the rulemaking process?** The Commission must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter.

## Statement of Basis and Purpose of Proposed Rule

On December 23, 2011 Governor Cuomo signed into law chapter 602 of the Laws of 2011, and on February 17, 2012, signed into law chapter 9 of the Laws of 2012, which amended the previous statute. This legislation allows New York City to issue up to 18,000 transferable licenses to for-hire vehicles authorizing them to pick up passengers by street hail anywhere outside Manhattan (except for the airports) and in Manhattan north of West 110th Street and north of East 96th Street. Up to 6,000 of these licenses for Street Hail Liveries can be issued in the first year of the program. Twenty percent of these licenses will be set aside for wheelchair accessible vehicles (City subsidies for accessible vehicle purchase/upgrades will be available).

The rules described below implement the state legislation. They outline the characteristics of and the services that the new Street Hail Vehicles will provide to New York City residents and visitors. The state legislation and the rules aim to improve access to safe, legal and convenient street hail service for the 6.7 million New York City residents who live outside of the neighborhoods where yellow taxi service is generally available.

The implementing rules are organized as follows:

1. Amendment to *Definitions* (Chapter 51) to incorporate Street Hail Liveries
2. Amendment to *For-Hire Service* (Chapter 59B) to outline requirements for base stations authorized to affiliate Street Hail Liveries
3. New chapter on *Street Hail Livery Service* (Chapter 82) outlining licensing, service and vehicle requirements
4. Amendments to *Medallion Taxicab Drivers* (Chapter 54) to incorporate requirements for drivers of Street Hail Liveries
5. New chapter on *Technology Vendors* (Chapter 83) creating a new license type for vendors of Street Hail Livery Technology Systems for Street Hail Liveries.

On April 19, 2012, the Commission held a public hearing at the Brooklyn Borough Hall and voted to approve the rules described above. The purpose of these proposed rules is to make technical and/or clarifying changes to certain provisions in Chapter 83.

### Changes to Chapter 83

1. The definitions of the terms “Epilogue,” “Passenger Information Monitor or PIM,” and “Screen” in §83-03(j), (w), and (ff), respectively, are amended to reflect that the term “Passenger Information Monitor or PIM” is defined in §51-03 of the Rules, and to clarify that a “Screen” is not a Passenger Information Monitor.
2. Section 83-29(a) is amended to make it clear that the LPEP Provider is responsible for the conduct of all of its employees, agents, contractors and subcontractors for activities performed to carry out the requirements of Chapter 83. This is consistent with the LPEP

Provider’s obligation under §83-12(a) to provide indemnification for third-party claims arising out of the operations of the LPEP Provider’s employees, agents and subcontractors in connection with any of the activities licensed under Chapter 83.

3. Section 83-31(d)(2) is amended to modify the measurement of screens in LPEPs that do not feature a Passenger Information Monitor to be not greater than 5.5 inches measured diagonally and not less than 2.5 inches measured diagonally. The amendment to §83-31(d)(3) is a technical change that reflects that the term Passenger Information Monitor is defined in §51-03 of the Rules.
4. Section 83-31(d)(4)(i)(A), (B) and (C) are amended to provide that LPEPs with Passenger Information Monitors be required to present PSAs, Emergency PSAs, and Passenger surveys only if the PIMs display any of the following:
  - commercial advertising
  - commercial sponsorships
  - news and entertainment-based content.
5. Section 83-31(d)(4)(i)(D) is amended to provide that the requirements for Commission reserved space on LPEPs with PIMs apply only to PIMs that display any of the following:
  - commercial advertising
  - commercial sponsorships
  - news and entertainment-based content.
6. Section 83-31(d)(4)(iv) is amended to provide that only PIMs that display commercial advertising and/or sponsorships are required to display news and entertainment-based content. In addition, an LPEP Provider of LPEPs with PIMs that do not display commercial advertising and/or sponsorships would be permitted to display news and entertainment-based content, but in such case would then be required to display PSAs, Emergency PSAs, and Passenger surveys, and would be subject to the Commission reserved space requirements.

| <b>Amended PIMS Display Requirements</b>  |   |
|---|---|
| <p>PIMS that display any of the following:</p> <ul style="list-style-type: none"> <li>• Commercial Ads</li> <li>• Commercial Sponsorships</li> </ul> <p>Must also display:</p> <ul style="list-style-type: none"> <li>• News and Entertainment</li> </ul> <p>And must also display:</p> <ul style="list-style-type: none"> <li>• PSAs</li> <li>• Emergency PSAs</li> <li>• Passenger Surveys</li> </ul> <p>And must also provide:</p> <ul style="list-style-type: none"> <li>• Commission Reserved Space</li> </ul> | <p>PIMS that display:</p> <ul style="list-style-type: none"> <li>• News and entertainment</li> </ul> <p>But do not display:</p> <ul style="list-style-type: none"> <li>• Commercial Ads</li> <li>• Commercial Sponsorships</li> </ul> <p>Must also display:</p> <ul style="list-style-type: none"> <li>• PSAs</li> <li>• Emergency PSAs</li> <li>• Passenger Surveys</li> </ul> <p>And must also provide:</p> <ul style="list-style-type: none"> <li>• Commission Reserved Space</li> </ul> |

7. Section 83-31(e)(1) is amended to insert “On-duty” preceding “Hail Exclusionary Zone Positioning” to reflect that the term “On-duty Hail Exclusionary Zone Positioning” is a term defined in §83-03(u).

New material is underlined.

[Deleted material is in brackets.]

Section 1. Subdivisions (j), (w), and (ff) of section 83-03 of chapter 83 of Title 35 of the Rules of the City of New York are amended to read respectively as follows:

**§83-03 Definitions Specific to This Chapter**

. . .

(j) *Epilogue*. The series of screens to be run on a Passenger Information Monitor [that offers advertising] at the end of each trip as described in §83-31(d)(4)(i)(A) of these Rules.

. . .

(w) *Passenger Information Monitor or PIM* [in this chapter and this chapter only shall mean the interactive screen in the rear of Street Hail Liveries that provides, among other features, fare payment screens at the end of the trip and may or may not display advertising] shall have the same meaning given such term in §51-03 of these Rules.

. . .

(jj) *Screen* [shall mean a] .A display screen in a Street Hail Livery which displays at the least fare payment information at the end of a trip, but which is not a Passenger Information Monitor.

§ 2. Subdivision (a) of section 83-29 of chapter 83 of Title 35 of the Rules of the City of New York is amended to read as follows:

**§83-29 Business Requirements – LPEP Provider Liability for Conduct of Employees**

(a) *Liability for Employee Conduct*. An LPEP Provider must supervise and be responsible for the conduct of all of its employees, contractors, and agents for activities performed to carry out the requirements of this Chapter. For clarity, this subdivision (a) and the following subdivision (b) shall not be applicable to Street Hail Livery Drivers[, and

individuals or business entities employed by any LPEP Provider or its subcontractor(s) who under applicable law are deemed to be independent contractors and not employees].

§ 3. Subparagraph (iii) of paragraph (2) and the opening sentence of paragraph (3) of subdivision (d) of section 83-31 of chapter 83 of Title 35 of the Rules of the City of New York are amended to read as follows:

**§83-31 Technical Requirements – Street Hail Livery Technology System (LPEP)**

(d) *Passenger Information Monitor, Screen, or Other Credit/Debit/Prepaid Card Device.* An LPEP must have either a Passenger Information Monitor, a screen, or other device that reads credit/debit/prepaid cards as provided below. The LPEP must conform to the following specifications:

(2) An LPEP with a screen but without a Passenger Information Monitor must have the following features:

(iii) The screen measurement must not be greater than [15.5] 5.5 inches measured diagonally and not less than 2.5 inches measured diagonally;

(3) An LPEP with a Passenger Information Monitor [that provides advertising content] must have the following features:

§ 4. The introductory paragraph of subparagraph (i) of paragraph (4) and clauses (A), (B), and (C) of subparagraph (i) of paragraph (4) of subdivision (d) of section 83-31 of chapter 83 of Title 35 of the Rules of the City of New York are amended to read as follows:

(4) Required features relating to PIM content are as follows:

(i) **TLC Content.** TLC Content consists of content that is produced by the Commission and submitted to the LPEP Provider for presentation to Passengers via the PIM. The Commission has the sole discretion to select TLC Content, and to decide whether the content is presented in audio and/or video formats. TLC Content includes, but is not limited to, the Prologue and Epilogue, Public Service Announcements, and Passenger Surveys, as described [below] in clauses (A)

through (C) below. TLC Content does not include the passenger route described in subparagraph (ii) below, payment processing information described in subparagraph (iii) below, news and entertainment content described in subparagraph (iv) below, commercial advertisements and sponsorships supplied by or for the LPEP Provider as described in subparagraph (v) below, and any other content not supplied by the Commission to the LPEP Provider. TLC Content shall be displayed on the PIM in accordance with the [reserved space requirements in clause (D) below and may be updated in accordance with clause (E) below] applicable provisions of this paragraph (d)(4).

- (A) Prologue and Epilogue. The Commission will provide the LPEP Provider with a series of screens to be run at the start (Prologue) and end (Epilogue) of each trip. The text and graphic content for the screens will be provided on a CD-Rom, by email or by other method acceptable to the Commission. The Prologue must run for at least thirty-five (35) seconds and will contain a greeting, Passenger information, fare information, credit, debit, or prepaid card payment information, and in PIMs that display commercial advertising and/or sponsorships in accordance with subparagraph (d)(4)(v) below and/or display news and entertainment-based content in accordance with subparagraph (d)(4)(iv) below, any Public Service Announcements provided by the Commission. The Epilogue must be either displayed for ten (10) seconds (whether in audio, video, or both) alone on the PIM screen or displayed on the fare payment screen upon the initiation of the payment transaction by an action of the Passenger. Such initiation of the payment transaction includes but is not limited to, depression of a cash selection button or the swiping (or other contact) of a credit, debit or prepaid card. Except as permitted by this paragraph (d)(4), the Prologue and Epilogue must not be interrupted or interfered with by other PIM content.
  
- (B) Public Service Announcements. [The] A PIM that displays commercial advertising and/or sponsorships in accordance with subparagraph (d)(4)(v) below and/or displays news and entertainment-based content in accordance with subparagraph (d)(4)(iv) below must present to Passengers all of the PSAs and Emergency PSAs provided by the Commission from time to time in graphic or text files or other formation in the discretion of the Commission. The PSAs and Emergency PSAs must be presented in the manner prescribed by the Commission, such as during the Prologue and/or Epilogue, at other times, and by showing certain PSAs at certain times of the day. The Commission may require that Emergency PSAs preempt all other content on the PIM. The

Passenger must have the option of viewing any additional PSAs not in the Prologue or Epilogue.

- (C) Passenger Surveys. [The] A PIM that displays commercial advertising and/or sponsorships in accordance with subparagraph (d)(4)(v) below and/or displays news and entertainment-based content in accordance with subparagraph (d)(4)(iv) below must permit the Passenger to take in-vehicle surveys of not more than twenty (20) questions (in yes or no, multiple choice format), the results of which are to be provided to the Commission on a weekly basis electronically, or made accessible to the Commission as described in paragraph (d)(7) below.

§ 5. Clause (D) of subparagraph (i) of paragraph (4) of subdivision (d) of section 83-31 of chapter 83 of Title 35 of the Rules of the City of New York is amended by adding an introductory sentence to read as follows:

- (4) Required features relating to PIM content are as follows:

- (i) TLC Content.

. . .

- (D) Reserved Space Requirements.

The reserved space requirements in this clause (D) apply only to PIMs that display commercial advertising and/or sponsorships in accordance with subparagraph (d)(4)(v) below and/or display news and entertainment-based content in accordance with subparagraph (d)(4)(iv) below.

. . .

§ 6. Subparagraph (iv) of paragraph (4) of subdivision (d) of section 83-31 of chapter 83 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (4) Required features relating to PIM content are as follows:

. . .

- (iv) News and Entertainment Content. [The] A PIM that displays commercial advertising and/or sponsorships in accordance with subparagraph (d)(4)(v) below must feature reasonably fresh and up-to-date news and entertainment-based content, including weather and sports information, in compliance with paragraphs (5) and (6) below. A PIM that does not display such commercial advertising and/or sponsorships may feature



news and entertainment-based content as described in the foregoing sentence.

§ 7. The introductory sentence of paragraph (1) of subdivision (e) of section 83-31 of chapter 83 of Title 35 of the Rules of the City of New York is amended to read as follows:

(e) *Automatic Vehicle Location System and Location Services.* An LPEP must have an Automatic Vehicle Location System and must provide location services as provided below. The LPEP must conform to the following specifications:

- (1) The LPEP must capture and transmit On-duty Location Positioning and On-duty Hail Exclusionary Zone Positioning and store and maintain the data in accordance with the requirements of [subdivision] paragraph (c)(5) of this section;

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**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Amendment of LPEP Rules (Chapter 83)**

**REFERENCE NUMBER: TLC-29**

**RULEMAKING AGENCY: TLC**

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco Navarro  
Mayor's Office of Operations

May 16, 2012  
Date

**NEW YORK CITY LAW DEPARTMENT  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-788-1087**

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE: Amendment of LPEP Rules (Chapter 83)**

**REFERENCE NUMBER: 2012 RG 041**

**RULEMAKING AGENCY: Taxi and Limousine Commission**

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

Date: May 16, 2012