

New York City Taxi and Limousine Commission

Notice of Promulgation of Rules

Notice is hereby given in accordance with section 1043(b) of the New York City Charter (“Charter”) that the Taxi and Limousine Commission (“TLC”) promulgates amendments to its rules regarding the battery electric vehicle exception to the for-hire vehicle license issuance pause. The promulgated rules eliminate the exception and require the TLC to consider issues surrounding battery electric vehicles when determining how many for-hire vehicle licenses to issue every six months.

This rule is promulgated pursuant to sections 1043 and 2303 of the Charter and section 19-503 of the Administrative Code of the City of New York. This rule was published in the City Record on May 20, 2021 for public comment. On June 22, 2021, a public hearing was held virtually by the TLC and the rule was adopted by the Commission at the June 22, 2021 Commission meeting. Pursuant to section 1043(f)(1)(d) and the Statement of Substantial Need for Earlier implementation attached to this notice, this rule will take effect immediately upon publication in the City Record.

Statement of Basis and Purpose

On August 7, 2019, the New York City Taxi and Limousine Commission (TLC) adopted rules implementing Local Law 147 of 2018. Local Law 147 paused the issuance of new FHV licenses for one year and gave TLC the authority to determine whether to authorize any additional FHV licenses after that time and, if it determined that such additional licenses were warranted, to establish their number. The rules issued by TLC, among other things, provided that the pause on the issuance of new For-Hire Vehicle (FHV) licenses would remain in effect, and required the TLC to review the current number of existing FHV licenses every six months and, on the basis of such review, to determine the number of new FHV licenses, if any, the TLC will issue over the next six months.

TLC's rules followed a study of traffic congestion in NYC, conducted by TLC and the New York City Department of Transportation pursuant to Local Law 147. The study found that FHV's were a significant contributor to traffic congestion in Manhattan and was the basis of TLC's determination that the pause on the issuance of new FHV licenses should remain in effect. However, in keeping the pause in effect, TLC exempted licenses issued to wheelchair accessible vehicles (WAVs) and battery electric vehicles (BEVs) from the licensing pause, permitting the issuance of new FHV licenses to such vehicles.

The TLC requires all FHV bases to provide wheelchair accessible service and, as such, TLC permitted the continued issuance of FHV licenses to wheelchair accessible vehicles. In contrast, the TLC does not require any individual driver or FHV base to use battery electric vehicles, nor does Local Law 147 require the continued issuance of FHV licenses to BEVs. The exemption for BEVs was meant to provide a limited means for FHV drivers who did not possess their own FHV license to be able to obtain an FHV license without significantly increasing greenhouse gas emissions, one of the negative consequences of licensing a new vehicle. In 2019 when TLC issued the rules, BEVs, while not novel, were relatively rare and not widely commercially available. The TLC anticipated that a minimal number of new BEVs would be added to the FHV fleet.

However, since the enactment of the FHV licensing pause, TLC has issued nearly 400 new FHV licenses under the BEV exception. As charging infrastructure is constructed throughout the City and as BEVs become more commercially available, TLC anticipates the number of applications for a new FHV license under the BEV exemption will likely increase exponentially. In order to prevent what was meant as a limited exemption to the FHV licensing pause from subverting the goals of the original pause, these rules eliminate the exemption for battery electric vehicles and make the issuance of FHV licenses to BEVs part of the semi-annual review of FHV licenses TLC is required to conduct.

Eliminating the exemption will better align TLC's FHV license issuance policy with two of the important goals of the licensing pause: reducing traffic congestion and greenhouse gas emissions. Current FHV license holders will still be allowed, as they have always been allowed, to transfer their FHV licenses from their current vehicles to BEVs. Traffic reduction and greenhouse gas emission reduction is best achieved by replacing the current fleet of greenhouse gas emitting FHV's with battery electric vehicles, not by adding new FHV's to the existing fleet of

vehicles. Adding more vehicles to the FHV fleet, battery electric or otherwise, will increase traffic congestion and, in doing so, slow the movement of traffic and increase greenhouse gas emissions. Eliminating this exemption and incorporating the issuance of FHV licenses to BEVs into its biannual review of all FHV licenses will allow TLC to better control the impact of an increase in vehicles, including BEVs, on traffic congestion and greenhouse gas emissions.

TLC's authority for these rules is found in section 2303 of the New York City Charter and section 19-503 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Paragraphs (1) and (2) of subdivision (a) of section 59A-06 of Title 35 of the Rules of the City of New York is amended to read as follows:

(a) *New License.* The term of a new For-Hire Vehicle License is two years.

(1) *New License Issuance.* One year following the effective date of this rule, and every six months thereafter, the Commission will review the number of For-Hire Vehicle Licenses, pursuant to section 19-550(b)(2) of the Administrative Code of the City of New York and determine the number of For-Hire Vehicle Licenses, if any, to issue in the six (6) months following such review and the types of vehicles to which the Commission will issue such new Licenses. In reviewing the number of Licenses to issue in the next six months, the Commission will review congestion levels, driver pay, License attrition rates, outer borough service, availability and demand for battery electric vehicles, availability of battery electric vehicle charging infrastructure, and any other information it deems relevant to determine the number of Licenses to issue. The results of such review, and the number of new For-Hire Vehicle Licenses the Commission will issue, will be posted on the Commission's website. The Commission will not issue new For-Hire Vehicle Licenses until such time as it completes its first review of the number of For-Hire Vehicle Licenses pursuant to this section.

(2) *Exceptions.* [Prior to the results of the first review performed pursuant to] Notwithstanding paragraph (1) of this subdivision, the Commission will continue to issue new Licenses to:

(i) Wheelchair accessible vehicles, and

(ii) [Battery electric vehicles, and

(iii) An applicant who possesses a TLC Driver's License, provides written proof that the applicant entered into a lease for the use of a licensed for-hire vehicle that contains a conditional purchase agreement for the vehicle prior to August 14, 2018, and demonstrates that the term of such lease is no less than two (2) years.

Statement of Substantial Need for Earlier Implementation

I hereby find, pursuant to Section 1043(f)(1)(d) of the New York City Charter, that there is a substantial need for the implementation of the rule eliminating the Battery Electric Vehicle exception to the For-Hire Vehicle License issuance pause immediately upon publication of the promulgated rule in the City Record.

On August 7, 2019, the New York City Taxi and Limousine Commission (TLC) adopted rules implementing Local Law 147 of 2018. Local Law 147 paused the issuance of new FHV licenses for one year and gave TLC the authority to determine whether to authorize any additional FHV licenses after that time and, if it determined that such additional licenses were warranted, to establish their number. In maintaining the pause, the TLC exempted licenses issued to battery electric vehicles (BEVs), permitting the issuance of new FHV licenses to such vehicles.

While TLC anticipated the BEV exception to yield a minimal number of new FHV licenses, since the enactment of the FHV licensing pause, TLC has issued nearly 400 new FHV licenses under the BEV exception. As charging infrastructure is constructed throughout the City and as BEVs become more commercially available, TLC anticipates the number of applications for a new FHV license under the BEV exception will likely increase exponentially.

By this rule, the TLC will close the BEV exception to the FHV licensing pause to ensure the FHV licensing pause is not undercut by the proliferation of new vehicles added to the fleet. Immediate implementation of this rule is necessary to prevent such growth in the size of the for-hire vehicle fleet, which would undercut the very purpose of eliminating the exception.