

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 regarding the penalties that govern the way for-hire vehicle bases submit trip records.

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 May 4, 2021. The public hearing will be held online using Zoom. There will be no in person public hearing. To view the public hearing, please access the live-stream video feed at www.nyc.gov/tlc. This public hearing will be live-streamed in Arabic, Bengali, Chinese Mandarin, Spanish, and Russian via a Zoom link to be posted on the TLC's website.

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

- **Website.** You can submit comments to the Taxi and Limousine Commission through the NYC rules website at www.nyc.gov/nycrules.
- **Email.** You can email comments to tlcrules@tlc.nyc.gov.
- **Mail.** You can mail comments to the Taxi and Limousine Commission, Office of Legal Affairs, 33 Beaver Street – 22nd Floor, New York, NY 10004.
- **Fax.** You can fax comments to the TLC at 212-676-1102.
- **By speaking at the hearing.** To sign up to speak and provide testimony, you must e-mail the TLC at tlcrules@tlc.nyc.gov or call 212-676-1135 by 5:00 p.m. on April 30, 2021. Speakers will not be able to sign up to testify the day of the hearing. Those who did not sign-up in advance to testify are welcome to view the live-stream of the meeting on TLC's website.

Is there a deadline to submit comments? Yes, you must submit comments by April 30, 2021.

Do you need assistance to participate in the Hearings? 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 April 30, 2021.

This location has the following accessibility option(s) available: Simultaneous transcription for people who are deaf or hard of hearing and audio only access.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at www.nyc.gov/nycrules. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a

summary of oral comments concerning the proposed rule 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 the need for 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 laws 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 RULES

In 2014, the TLC approved rules that require For-Hire-Vehicle (FHV) bases to submit trip records to the TLC. This new data promotes fundamental agency priorities, including:

- Keeping passengers safe by informing the agency of the identity of the driver of a dispatched for-hire vehicle (we need the name of the driver and the corresponding license number to enforce safety and consumer protection regulations);
- Preventing driver fatigue in support of Vision Zero street safety program; and
- Ensuring that those drivers dispatched by High Volume For-Hire Bases receive the minimum pay provided for in TLC's rules.

The proposed rules would strengthen the TLC's ability to pursue these goals by prohibiting the following improper practices relating to trip record submissions:

- A Base failing to submit trip records in a timely fashion,
- A Base failing to submit complete trip records, and
- A Base submitting faulty or inaccurate trip data.

Further, these rules would establish new penalties for the violations listed above.

Finally, the proposed rules would increase certain data submission requirements to allow the TLC to enforce timeliness and other service standards of trips taken in Wheelchair Accessible Vehicles.

TLC's authority for these rules is found in sections 2303 and 1043(a) 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. Paragraph (1) of subdivision (a) of section 59B-19 of Title 35 of the Rules of the City of New York is amended, paragraph (2) is renumbered paragraph (6), and such subdivision is amended by adding new paragraphs (2) through (5), to read as follows:

§59B-19 Operations – Trip Record Information

(a) *Required Information.* A Base Owner must make sure that the following records are collected and transmitted to the Commission on a monthly basis in a format, layout[,] and procedure[, and frequency] prescribed by the Commission:

- (1) With respect to all dispatched calls:
 - (i) The date, the time, and the location of the Passenger pickup and drop-off
 - (ii) The Driver’s TLC Driver License number
 - (iii) The dispatched Vehicle’s License number
 - (iv) The TLC License number of the For-Hire Base that dispatched the Vehicle
 - (v) The TLC License number of the For-Hire Base affiliated to the dispatched Vehicle
 - (vi) Whether the Passenger is sharing the Vehicle for part or all of the trip with a Passenger from another dispatched call, and
 - (vii) Where applicable, an indication that the trip concluded in a cancellation by the Passenger or Driver.

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§59B-19(a)(1)	Fine: \$100 if plead guilty before a hearing and suspension until compliance; \$150 if found guilty following a hearing and suspension until compliance.	Appearance NOT REQUIRED
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(2) *Affidavit of No Dispatch.* Where a base has not dispatched any trips in a reporting period, the base must submit an affidavit to the TLC affirming same. Use of e-signature on the TLC website will satisfy this requirement.

<u>§59B-19(a)(2)</u>	<u>Fine: \$100 for each day past the date the affidavit is due if plead guilty before a hearing and suspension until compliance; \$150 for each day past the affidavit due if found guilty following a hearing and suspension until compliance.</u>	<u>Appearance NOT REQUIRED</u>
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(3) Timely Submission of Trip Records.

- (i) A base must submit trip records for a month's trips no later than the last day of the following month. For example, all September trip records will be due on October 31st. The following penalties accrue with respect to each untimely submission of trip records:

<u>§59B-19(a)(3)</u>	<u>Fine: \$100 for each day past the date the records are due if plead guilty before a hearing and suspension until compliance; \$150 for each day past the records are due if found guilty following a hearing and suspension until compliance.</u>	<u>Appearance NOT REQUIRED</u>
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(4) Incomplete Trip Records. With respect to all trip records submitted to TLC:

- (i) Each set of submitted records must be complete and include all information listed in and required by paragraph (1) of this subdivision, and for those bases subject to Minimum Driver Payment Requirements, all information listed in and required by subdivision (d) of this section. The following penalties accrue with respect to each trip for which all required information was not submitted.

<u>§59B-19(a)(4)(i)</u>	<u>Fine: \$100 per incomplete trip record for the first ten incomplete records and suspension until compliance; \$500 per each incomplete record thereafter and suspension until compliance.</u>	<u>Appearance NOT REQUIRED</u>
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(5) Inaccurate Trip Records. With respect to all trip records submitted to TLC:

- (i) The records that each Base submits for any time period in which they dispatch trips must not contain inaccuracies. For example, the date, time and location of the passenger pick-up that is required by paragraph (1) of this subdivision must be accurate. The following penalties accrue with respect to each trip that was submitted inaccurately.

<u>§59B-19(a)(5)(i)</u>	<u>Fine: \$100 per trip record inaccuracy for the first ten inaccuracies and suspension until compliance; \$500 per inaccuracy thereafter and suspension until compliance.</u>	<u>Appearance NOT REQUIRED</u>
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([2]6) With respect to all affiliated Vehicles:

Section 2. Subdivision (d) of Section 59B-19 of Title 35 of the Rules of the City of New York, relating to special requirements for bases subject to minimum driver payment requirements, is REPEALED.

Section 3. The introductory matter of subdivision (a) of section 59D-14 of Title 35 of the Rules of the City of New York is amended, and such subdivision is amended by adding new penalties for paragraphs (1) through (5) and new paragraphs (6) through (8), to read as follows:

59D-14 Operations – Trip Record Information

(a) *Required Information.* A High-Volume For-Hire Service must collect and transmit on a bi-weekly basis to the Commission, in a format, layout[,], and procedure[, and frequency] prescribed by the Commission, the following records:

- (1) With respect to all trips the High-Volume For-Hire Service dispatches through a Base:
 - (i) The date, the time, and the location of the Passenger pickup and drop-off
 - (ii) The Driver's TLC Driver License number
 - (iii) The dispatched Vehicle's License number
 - (iv) The TLC License number of the For-Hire Base that dispatched the Vehicle
 - (v) The TLC License number of the For-Hire Base affiliated to the dispatched Vehicle
 - (vi) The total number of passengers picked up and dropped off
 - (vii) The total trip mileage
 - (viii) The date and time the Passenger requested the trip
 - (ix) The itemized fare for the trip including the amount of the fare, any toll, surcharge, commission rate, other deduction and any gratuity and a breakdown of the amount such passenger paid for the trip
 - (x) The payment the Driver received for the trip or the Driver's hourly paid rate
 - (xi) If the trip enters the Congestion Zone but the pick-up did not occur in the Congestion Zone, the date, time, and location (latitude, longitude, and human-readable street address) of the point at which the vehicle entered the Congestion Zone and, if applicable, the date, time, and location

(latitude, longitude, and human-readable street address) of the point at which the vehicle exited the Congestion Zone, and

- (xii) An indicator as to whether the trip was administered as part of the MTA's Access-A-Ride program.
- (2) For each time a Vehicle makes itself available to be dispatched by the High-Volume For-Hire Service:
 - (i) The Vehicle License number
 - (ii) The TLC Driver License number of the Driver operating the Vehicle
 - (iii) The date and time at which the Vehicle became available to accept dispatches from the High-Volume For-Hire Service
 - (iv) The geographic position of the Vehicle during the entire time the Vehicle is available to accept dispatches from the High-Volume For-Hire Service at intervals no less frequent than every sixty (60) seconds
 - (v) The date and time at which the Vehicle became unavailable to accept dispatches from the High-Volume For-Hire Service
 - (vi) If the Vehicle enters the Congestion Zone while available to accept dispatches from the High-Volume For-Hire Service, the date, time, and location (latitude, longitude, and human-readable street address) of the point at which the Vehicle entered the Congestion Zone and, if applicable, the date, time, and location (latitude, longitude, and human-readable street address) of the point at which the Vehicle exited the Congestion Zone,
 - (3) The amount of time spent transporting passengers each day by each Vehicle that has made itself available to be dispatched by the High-Volume For-Hire Service, and the amount of time spent by such Vehicles between trips but not on the way to the passenger.
 - (4) The amount of time each Available Vehicle spends each day in the Congestion Zone, and
 - (5) The amount of time each Available Vehicle spends each day Cruising in the Congestion Zone:

§59D-14(a)(1)-(5)	[Fine: \$100 if plead guilty before a hearing and suspension until compliance; \$150 if found guilty following a hearing and suspension until compliance.] <u>Fine: \$500 for each day past the date the records are due if plead guilty before a hearing</u>	Appearance NOT REQUIRED
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	<u>and suspension until compliance; \$1,000 for each day past the date the records are due if found guilty following a hearing and suspension until compliance. Fine amount not to exceed \$10,000 per bi-weekly submission of records.</u>	
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(6) Timely Submission of Trip Records.

- (i) A High Volume For-Hire Service must submit trip records on a bi-weekly basis. The following penalties accrue with respect to each submission of trip records that were not submitted on time:

<u>§59D-14(a)(6)</u>	<u>Fine: \$500 for each day past the date the records are due if plead guilty before a hearing and suspension until compliance; \$1,000 for each day past the date the records are due if found guilty following a hearing and suspension until compliance. Fine amount not to exceed \$10,000 per bi-weekly submission of records.</u>	<u>Appearance NOT REQUIRED</u>
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(7) Incomplete Trip Records. With respect to all trip records submitted to TLC:

- (i) Each set of submitted records must be complete and include all information listed in this subdivision and in subdivision (b) of this section. The following penalties accrue with respect to each trip for which all required information was not submitted.

<u>§59D-14(a)(7)(i)</u>	<u>Fine: \$100 per incomplete trip record for the first ten incomplete records and suspension until compliance; \$500 per each incomplete record thereafter and suspension until compliance. Fine amount not to exceed \$10,000 per bi-weekly submission of records.</u>	<u>Appearance NOT REQUIRED</u>
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(8) Inaccurate Trip Records. With respect to all trip records submitted to TLC:

- (i) The records that each Base submits for any time period in which they dispatch trips must not contain inaccuracies. For example, the date, time and location of the passenger pick-up that is required by paragraph (1) of this subdivision must be accurate.

<u>§59D-14(a)(8)(i)</u>	<u>Fine: \$100 per trip record inaccuracy for the first ten inaccuracies and suspension until compliance; \$500 per inaccuracy thereafter and suspension until compliance. Fine amount not to exceed \$10,000 per bi-weekly submission of records.</u>	<u>Appearance NOT REQUIRED</u>
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Section 4. Section 59D-14 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (c), to read as follows:

(c) Special Trip Record Requirements for Minimum Driver Payments.

- (1) A High-Volume For-Hire Service must collect and transmit to the Commission on a bi-weekly basis, in a format, layout and procedure prescribed by the Commission, the following information for each time a Driver is available to accept dispatches from the High-Volume For-Hire Service:
- (i) The Driver's TLC Driver License number of the Driver who is available to accept dispatches from the High-Volume For-Hire Service
 - (ii) The Vehicle Identification Number of the Vehicle operated by the Driver specified in subparagraph (i) of this paragraph
 - (iii) The date and time at which the Driver became available to accept dispatches from the High-Volume For-Hire Service
 - (iv) The Vehicle License number of the Vehicle operated by the Driver specified in subparagraph (i) of this paragraph
 - (v) The geographic position of the Vehicle operated by the Driver specified in subparagraph (i) of this paragraph during the entire time the Driver is available to accept dispatches from the High-Volume For-Hire Service at an interval of no less frequent than every sixty (60) seconds
 - (vi) The date, time and geographic position of the Vehicle operated by the Driver specified in subparagraph (i) of this paragraph when the Driver accepts a dispatch
 - (vii) Total miles driven by the Driver specified in subparagraph (i) of this paragraph while the Driver was available to accept dispatches from the High-Volume For-Hire Service
 - (viii) Total miles driven with a Passenger while the Driver specified in subparagraph (i) of this paragraph was available to accept dispatches from the High-Volume For-Hire Service
 - (ix) The date and time at which the Driver specified in subparagraph (i) of this paragraph became unavailable to accept dispatches from the High-Volume For-Hire Service
 - (x) An indicator as to whether the Driver specified in subparagraph (i) of this paragraph or the Base made the Driver unavailable to accept dispatches from the High-Volume For-Hire Service

- (xi) The total Driver earnings paid to the Driver specified in subparagraph (i) of this paragraph for the period in which the Driver was available to accept dispatches from the High-Volume For-Hire Service
 - (xii) The date and time at which the Driver specified in subparagraph (i) of this paragraph arrived at the pick-up location of a dispatched trip
 - (xiii) The date and time at which a Passenger entered the Vehicle operated by the Driver specified in subparagraph (i) of this paragraph to commence the dispatched trip
 - (xiv) The date and time at which a Passenger exited the Vehicle operated by the Driver specified in subparagraph (i) of this paragraph to conclude the dispatched trip
- (2) A High-Volume For-Hire Service must collect and transmit to the Commission on a bi-weekly basis, in a format, layout and procedure prescribed by the Commission, for each Driver to which the High-Volume For-Hire Service dispatched a trip, a weekly statement of the Driver's total earnings, itemized to include any deductions made from the Driver's earnings and any payments made in addition to per-trip or hourly payments.
- (3) A High-Volume For-Hire Service must collect and transmit to the Commission on a bi-weekly basis, in a format, layout and procedure prescribed by the Commission, the following additional information with respect to all dispatched calls:
- (i) The itemized fare for the trip charged to the Passenger (fare, tolls, taxes, gratuity, commission rate, deductions and surcharges);
 - (ii) The total number of Passengers picked up and dropped off during each dispatched call referenced in paragraph (1) of subdivision (a) of this section;
 - (iii) The total trip mileage for each dispatched call referenced in paragraph (1) of subdivision (a) of this section;
 - (iv) The total trip mileage outside of the limits of the City for each dispatched call referenced in .paragraph (1) of subdivision (a) of this section;
 - (v) The total trip time outside of the limits of the City for each dispatched call referenced in .paragraph (1) of subdivision (a) of this section;
 - (vi) The date and time such trip request was made by a Passenger;

- (vii) Instances where a Passenger makes multiple requests for a single, completed trip, the date and time of the latest such request;
- (viii) Instances where a trip is requested but not completed because
 - A. The Passenger canceled the request, the Date, time and Vehicle location when the passenger canceled the request
 - B. The Passenger failed to show up for the requested trip, the Date and time at which the Driver canceled the request due to lack of passenger at pick-up location
 - C. The Driver canceled the request, the Date, time and Vehicle location when the Driver canceled the request
 - D. No Driver accepted the trip after the trip was requested.
- (ix) The total trip time, as calculated as the time between when the Passenger entered the vehicle and when the Passenger exited the vehicle
- (x) The total time between trips for the same Driver, as calculated as the time between when the prior trip ends and when the Driver receives dispatch for the subsequent trip
- (xi) For trips dispatched to Drivers paid on a per-trip basis by the High-Volume For-Hire Service, the total Driver earnings paid to the Driver for each trip
- (xii) For trips dispatched to Drivers paid on an hourly basis, the total Driver earnings paid to the Driver for each hour the Driver was available to receive dispatches from the High-Volume For-Hire Service.

Section 5. Subdivision (d) of Section 59D-16 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (d) *Eligible Drivers and Affiliated Vehicles.* A High-Volume For-Hire Service must report to the Commission on a monthly basis the following information:
 - (1) A list of all Drivers eligible to receive dispatches from the High-Volume For-Hire Service in the previous month, including the Drivers' TLC License number
 - (2) A list of all Drivers that became ineligible to receive dispatches from the High-Volume For-Hire Service in the previous month, including the Drivers' TLC License number, the date on which the Drivers became ineligible to receive

dispatches, and an indicator as to whether the ineligibility to receive dispatches was Driver or High-Volume For-Hire Service initiated.

- (3) With respect to all affiliated Vehicles:
- (i) The Owner’s name, mailing address, and home telephone number
 - (ii) The Vehicle Identification Number of the affiliated Vehicle
 - (iii) The affiliated Vehicle’s registration number
 - (iv) The affiliated Vehicle’s License number
 - (v) The affiliated Vehicle’s license plate number
 - (vi) The name of the affiliated Vehicle’s insurance carrier and the policy number
 - (vii) The dates of inspection of the affiliated Vehicle and the outcome of each inspection

Section 6. Subdivisions (a) and (b) of Section 59D-17 of Title 35 of the Rules of the City of New York are amended, and a new subdivision (c) is added, to read as follows:

§59D-17 Operations – Rates and Tolls

- (a) *Rates Must Not Exceed Scheduled Rates.* A High-Volume For-Hire Service must not quote or charge a fare[, or allow a Base through which it dispatches trips to quote or charge a fare,] that is more than the fare listed in the Rate Schedule filed with the Commission.

§59D-17(a)	Fine: \$200 for Passenger overcharge, whether from any quote or from schedule of fares required to be filed with the Commission.	Appearance NOT REQUIRED
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- (b) *Tips and Gratuities.* A High-Volume For-Hire Service’s Passenger-Facing Booking Tool must provide a means to allow passengers to tip Drivers. A [Base] High-Volume For-Hire Service must remit to the Driver the entirety of anything designated as a tip or gratuity collected by the High-Volume For-Hire Service from a customer on behalf of the Driver.

§59D-17(b)	Fine: \$500	Appearance NOT REQUIRED
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- (c) Tolls. A High-Volume For-Hire Service must remit to the Driver the entirety of any toll paid by the Driver during a dispatched trip.

<u>§59D-17(c)</u>	<u>Fine: \$500 and restitution to the Driver for any tolls that were not properly reimbursed.</u>	<u>Appearance NOT REQUIRED</u>
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**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

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

RULE TITLE: Amendment of Rules Governing Grants for Accessible Street Hail Livery Vehicles

REFERENCE NUMBER: TLC-117

RULEMAKING AGENCY: Taxi and Limousine Commission

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 for certain violations because rule violations arise from completed events, the consequences of which are immediate, which makes a cure period impracticable under the circumstances.

/s/ Francisco Navarro
Mayor's Office of Operations

March 23, 2021
Date

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

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

RULE TITLE: Amendment of Rules Governing Trip Records of For-Hire Vehicle Bases

REFERENCE NUMBER: 2021 RG 007

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: March 22, 2021