

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 governing taxicab roof lights to eliminate the manually operated Off Duty light.

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 at Taxi and Limousine Commission, 33 Beaver Street – 19th Floor, New York, New York 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 – 22nd 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.
- **Website.** You can submit comments to the Taxi and Limousine Commission through the NYC Rules Web site at 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, at 10:00 a.m. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by June 18, 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 June 15, 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 at 33 Beaver Street, 22nd Floor, New York, NY 10004.

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 the rule was not anticipated at the time the regulatory agenda was published.

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 RULES

The TLC proposes to change rules governing how a taxicab driver signals to the public whether they are on-duty and available for a hail or off-duty and unavailable for a hail. The Commission's authority for this rules change is found in section 2303 of the New York City Charter and section 19-503 of the New York City Administrative Code. Today, taxicab roof lights have two separate lights: (1) the medallion number light, and (2) the "off-duty" sign. The medallion number light turns on when the meter is activated and off when the meter is deactivated; the off-duty light is operated by a manual switch on the dashboard.



Depending on the taxicab's availability, these lights are displayed in one of four combinations:

Message to Potential Passengers	Medallion Number	Off-Duty Light
On-duty and available	ON	OFF
On-duty but unavailable (already has passenger inside)	OFF	OFF
Off-duty and occupied by passenger (on a "going my way" trip)	OFF	ON
Off-duty but maybe can take you (available for "going my way" trip)	ON	ON

In a 2012 TLC survey of 7,353 taxicab passengers, 37% said that the roof light does not clearly indicate availability to them. Some passengers mistake *any* illumination on the roof light as an indication that the taxi is available. Also, from a distance, passengers are unable to distinguish between the off duty light and the medallion light. What results from this visual confusion is that passengers repeatedly try to hail off duty taxis. This can make passengers feel that they are being refused by the taxi driver, when really what occurred was a misunderstanding of what the taxicab's roof light was signaling.

Drivers are permitted to go off duty for personal reasons, although they are not permitted to do so for the purpose of refusing a passenger. Some drivers cherry pick passengers by

cruising with their off duty lights illuminated (even when they are in fact available for hail) to try to avoid charges of refusal, but under TLC rules, this conduct is also a refusal. A driver who is in fact on duty must take a passenger to any requested destination in the five boroughs, Nassau County or Westchester County.

The purpose of the proposed rules is to resolve the above two problems through the elimination of the manual off duty light, specifically by:

1. Converting to a single-light system thereby eliminating the off duty light. When the medallion number light is lit up the taxi is available and when it is not it is unavailable. This system works successfully in many cities with large taxi fleets, including London.
2. Requiring drivers to indicate off duty status through entering an off duty code into T-PEP or LPEP which will then automatically turn the meter and the medallion number light off.



The proposed rules would not alter the longstanding “going my way” practice. A driver who has indicated that he is off duty can ask for a passenger’s destination to determine if the route aligns with his own; however, he would need to log back on-duty in the T-PEP or LPEP to be able to engage the meter. Also, the proposed rules do not interfere with the driver’s ability to go on breaks as often as he or she likes.

Under the proposed rule, taxicabs would convert to the new single-light system on a rolling basis and would be required to convert by the date of their next scheduled inspection between September 1, 2012 and December 31, 2012. The costs associated with this conversion are minimal as existing rooftop lights can be converted to meet the new requirement through an inexpensive process of blacking out the off duty portion of the existing roof light, upgrading the software for the meter and T-PEP system, and cutting the wires that enable manual manipulation of the roof light.

New material is underlined.

[Material inside brackets indicates deleted material.]

Section 1. The definition of “Relief Time” set forth in section 51-03 of Title 35 of the Rules of the City of New York is deleted and the definition of “Personal Use-Off Duty” is amended, to read as follows:

Personal Use—Off Duty is the designation made when a Driver is no longer operating the Taxicab for hire [and is usually for a longer period than Relief Time].

[*Relief or Relief Time* is a limited period of time when a Driver is off duty to fulfill personal needs.]

Section 2. Subdivision 12 of section 54-03 of Title 35 of the Rules of New York is amended, subdivision 13 is deleted, and a new subdivision 13 is added, to read as follows:

(12) *Personal Use—Off Duty* is the designation made when a Driver is no longer operating the Taxicab for hire [and is usually for a longer period than Relief Time].

(13) [*Relief or Relief Time* is a limited period of time when a Driver is off duty to fulfill personal needs.] *Off Duty Change Date* — is the date by which you must eliminate the use of the off duty light. You must eliminate the use of the off duty light by the date of your next regularly scheduled inspection between September 1, 2012 and December 31, 2012

Section 3. Subdivision (m) of section 54-15 of Title 35 of the Rules of New York is amended to read as follows:

§54-15 Operations – General Rules During Operation of Vehicle

(m) *Off Duty Procedures for a Taxicab.*

(1)(i) Before the Off Duty Change Date. When the Taxicab is operated for personal use, "Personal Use--Off Duty" must be keyed into TPEP (or made on the written Trip Record), and the "Off Duty" light must be turned on.

(ii) After the Off Duty Change Date. When the Taxicab is operated for personal use, "Personal Use--Off Duty" must be keyed into TPEP (or made on the written Trip Record).

§54-15(m)(1)	Fine: \$100 if plead guilty before a hearing; \$150 if found guilty following a hearing.	Appearance NOT REQUIRED
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(2)(i) Before the Off Duty Change Date. A Driver must turn on the "Off Duty" light only by use of a manually operated switch on the Taxicab dashboard.

(ii) After the Off Duty Change Date. A driver must enter the appropriate off duty code into the T-PEP system.

§54-15(m)(2)	Fine: \$[75] <u>100 if plead guilty before a hearing; \$150 if found guilty following a hearing.</u>	Appearance NOT REQUIRED
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Section 4. Subdivisions (b) and (d) of section 54-17 of Title 35 of the Rules of New York are amended to read as follows:

§54-17 Operations – Rates, Charges and Payment

(b) *Non-Paying Customers.* If a Passenger refuses to pay the metered fare, the Driver must place the meter in the off or “Vacant” position, [illuminate the “Off Duty” light if driving a Taxicab and, if driving a Street Hail Livery, must enter off duty into the taximeter], and:

(1) Before the Off Duty Change Date

(i) Illuminate the “off duty” light if driving a Taxicab or enter off duty into the taximeter if driving a Street Hail Livery

[(2)](ii) Record the amount of fare on the Taximeter onto the Trip Record through the Taxicab Technology System [(or LPEP [if applicable)], or onto the written Trip Record if the T- PEP [(or LPEP)] is not working, and

(iii) Proceed directly to the nearest police precinct, present the facts to the police and follow their instructions for resolving the dispute.

(2) After the Off Duty Change Date. If a Passenger refuses to pay the metered fare, the Driver must place the meter in the off or “Vacant” position and enter off duty into the taximeter, and:

(i) Record the amount of fare on the Taximeter onto the Trip Record through the Taxicab Technology System or LPEP, or onto the written Trip Record if the T-PEP or LPEP is not working, and

(ii) Proceed directly to the nearest police precinct, present the facts to the police and follow their instructions for resolving the dispute.

(d) *Making Change.*

(1) A Driver must always be capable of making change for a \$20 bill during his or her work shift.

(2) If the Driver is not able to change a \$20 bill, the Driver will, with the Passenger's consent, take the following steps:

(i) Before the Off Duty Change Date. Place the meter in an off or "Vacant" position and illuminate the "Off Duty" light, or if driving a Street Hail Livery, key the appropriate off duty code into LPEP.

(ii) After the Off Duty Change Date. Key the appropriate off duty code into T-PEP or LPEP.

Section 5. Paragraph (5) of subdivision (a) of section 54-19 of Title 35 of the Rules of New York is amended to read as follows:

§54-19 Operations – Passenger Solicitation and Engagement

(a) *Limits on Driver Solicitation of Passengers.*

(5) (i) Before the Off Duty Change Date. A Driver of a Taxicab who has illuminated the "Off Duty" light must not solicit or accept a Passenger unless ALL of the following are true:

[(i)](A) The Driver is returning the Taxicab to his or her garage or home.

[(ii)](B) The Driver has transmitted the relevant information to an electronic database for entry on the electronic trip record or made a written trip record entry "Returning to garage (or home)".

[(iii)](C) The Passenger's destination is directly on the route to the Driver's home or garage.

[(iv)](D) When the last passenger is discharged, the Driver must lock the doors and return to his garage or home.

(ii) After the Off Duty Change Date. A Driver who has entered the appropriate off duty code into T-PEP must not solicit or accept a Passenger unless ALL of the following are true:

(A) The Driver is returning the Taxicab to his or her garage or home.

(B) The Driver has transmitted the relevant information to an electronic database for entry on the electronic trip record or made a written trip record entry "Returning to garage (or home)".

(C) The Passenger's destination is directly on the route to the Driver's home or garage.

(D) When the last passenger is discharged, the Driver must lock the doors and return to his garage or home.

§54-19(a)(5)	Fine: \$[75] <u>100 if plead guilty before a hearing; \$150 if found guilty following a hearing.</u> Points: 1	Appearance NOT REQUIRED
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Section 6. Paragraphs (4), (5) and (6) of subdivision (b) of section 54-20 of Title 35 of the Rules of New York are amended to read as follows:

§54-20 Operations – Refusing Passengers

(b) *Justifications for Refusing Passenger.* The following are permitted reasons for refusing to transport:

(4) The Driver is discharging his last Passenger or Passengers Before going off duty, and has already:

(i) Before the Off Duty Change Date.

[(i)](A) Illuminated his “Off Duty” light if driving a Taxicab, or entered the off duty button on the taximeter if driving a Street Hail Livery, and

[(ii)](B) Transmitted or entered the appropriate data.

(ii) After the Off Duty Change Date. Entered the appropriate off duty code in T-PEP or LPEP.

(5) The Driver is ending his or her work shift, and has already:

(i) Before the Off Duty Change Date.

[(i)](A) Illuminated the “Off Duty” sign if driving a Taxicab, or entered the off duty button on the taximeter if driving a Street Hail Livery,

[(ii)](B) Locked both rear doors, and

[(iii)](C) Transmitted or entered the appropriate data.

(ii) After the Off Duty Change Date.

(A) Entered the appropriate off duty code in T-PEP or LPEP.

(B) Locked both rear doors.

(6) The Driver must take the Taxicab or Street Hail Livery out of service for required repairs to T-PEP or LPEP, and has already:

(i) Before the Off Duty Change Date

[(i)](A) Illuminated the “Off Duty” light sign (or entered the off duty button on the taximeter in a Street Hail Livery),

[(ii)](B) Locked both rear doors, and

[(iii)](C) Transmitted or entered the appropriate data.

(ii) After the Off Duty Change Date

(A) Enter the appropriate off duty code in T-PEP or LPEP,

(B) Locked both rear doors

Section 7. Subdivisions (e) and (h) of section 54-22 of Title 35 of the Rules of New York are amended to read as follows:

§54-22 Vehicle – Operation and Condition

(e) *Exterior Clean and Identification Visible.* During his or her work shift, a Driver must keep the Medallion number or Street Hail Livery number on the front and rear of the [r]Roof [l]Light clean and unobstructed so that it can be seen at all times.

§54-22(e)	Fine: \$[50] <u>100 if plead guilty before a hearing; \$150 if found guilty following a hearing.</u>	Appearance NOT REQUIRED
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(h) *Operation of Roof Lights and Taximeters.*

(1) While on duty, a Driver must not operate a Taxicab unless:

(i) The [r]Roof [l]Light is lit when the Taximeter is not in use, and

(ii) The [r]Roof [l]Light is off when the Taximeter is in use.

(2) While on Duty, a Driver must not operate a Street Hail Livery unless:

(i) The [r]Roof [l]Light is lit when the Taximeter is not in use;

(ii) The [r]Roof [l]Light is off when the Taximeter is in use; or

(iii) The [r]Roof [l]Light is off when the Street Hail Livery is traveling to pick up a Passenger for a Pre-Arranged Trip or has a Passenger in the Vehicle who is on a Pre-Arranged Trip or the Driver is off duty.

§54-22(h)	Fine: \$50-\$250 and/or suspension up to 30 days Points: 1	Appearance [NOT] REQUIRED
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Section 8. Paragraphs (3) and (5) of subdivision (c) of section 54-26 of Title 35 of the Rules of New York are amended to read as follows:

§54-26 Vehicle Equipment – Taximeters

(c) Taximeter Tampering

(3) *Roof Light and other Electrical Connections.*

(i) A Driver must not tamper with R[r]oof L[l]ight or any of the interior lights or connections [except to replace a defective bulb or fuse].

(ii) The R[r]oof L[l]ight of a Taxicab or Street Hail Livery must be automatically controlled only by the movement of the Taximeter button or ignition switch so that it is lighted only when the Taximeter is in an off or "Vacant" position and unlighted when the Taximeter is in a recording or "Hired" position.

(iii) The Commission will assume that a Driver who operates a Vehicle with an unauthorized installation or device controlling interior or roof lighting knew of the unauthorized installation or device and deliberately operated the Vehicle in violation of this Rule, and the Commission will take appropriate action against the Driver.

§54-26(c)(3)	Fine: \$50-\$350 and/or suspension up to 30 days Points: 3	Appearance REQUIRED
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(5) *Procedures for Terminating Use of Vehicle with Defective Taximeter.* Upon terminating a trip because of a defective Taximeter, T-PEP or LPEP, the Driver must:

(i) Before the Off Duty Change Date

[(i)](A) Illuminate the "Off Duty" light in a Taxicab and enter the off duty button on the taximeter in a Street Hail Livery

[(ii)](B) Lock the rear doors

[(iii)](C) Transmit data that the Taximeter is defective (or enter on a written Trip Record, if T-PEP system is inoperative)

[(iv)](D) Return the Vehicle immediately to the garage of record or a licensed Taximeter repair shop.

(ii) After the Off Duty Change Date

(A) Enter the appropriate off duty code in T-PEP or LPEP.

(B) Lock the rear doors

(C) Transmit data that the Taximeter is defective (or enter on a written Trip Record, if T-PEP or LPEP system is inoperative)

(D) Return the Vehicle immediately to the garage or base of record or a licensed Taximeter repair shop.

§54-26(c)(5)	Fine: \$[50] <u>100 if plead guilty before a hearing;</u> <u>\$150 if found guilty following a hearing.</u>	Appearance NOT REQUIRED
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Section 9. Paragraph (2) of subdivision (d) of section 58-12 of Title 35 of the Rules of New York is amended to read as follows:

§58-12 Compliance with Law – No Unlicensed Activity

(d) No Unlicensed Drivers.

(2) Exceptions. An Owner can permit a person who does not possess a Taxicab Driver’s License to drive the vehicle only when all of the following limited circumstances are met:

(i) Before the Off Duty Change Date

[(i)](A) The vehicle is being driven to or from the Commission’s centralized Taxicab inspection facility or a repair facility;

[(ii)](B) The off-duty light is illuminated;

[(iii)](C) A current Trip Record (written or electronically printed out) is in the Taxicab, indicating the vehicle is “Off-Duty” and why;

[(iv)](D) The rear doors are locked;

[(v)](E) The person driving the vehicle is licensed to drive a motor vehicle;

[(vi)](F) The person driving the vehicle is not a person whose Taxicab Driver’s License is suspended or revoked.

(ii) After the Off Duty Change Date

(A) The vehicle is being driven to or from the Commission’s centralized Taxicab inspection facility or a repair facility;

(B) The driver has entered the appropriate off duty code in T-PEP

(C) A current Trip Record (written or electronically printed out) is in the Taxicab, indicating the vehicle is “Off-Duty” and why;

(D) The rear doors are locked;

(E) The person driving the vehicle is licensed to drive a motor vehicle;

(F) The person driving the vehicle is not a person whose Taxicab Driver’s License is suspended or revoked.

§58-12(d)(2)	Fine: \$400 and/or suspension up to 30 days	Appearance REQUIRED
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Section 10. Subdivisions (f) and (h) of section 58-31 of Title 35 of the Rules of New York are amended to read as follows:

§58-31 Vehicle Condition – Miscellaneous

(f) *Medallion Number on Roof Light.* The Medallion number on the front and rear of the R[r]oof L[l]ight must be clean and unobstructed so that the Medallion number is plainly visible.

§58-31(f)	Fine: \$50 if plead guilty before a hearing; \$75 if found guilty following a hearing.	Appearance NOT REQUIRED
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(h) *Lighting Control.* The dashboard dimmer switch or any other device must not control the candlepower of the R[r]oof L[l]ight, Taximeter light, card frame light or interior lighting.

§58-31(h)	Fine: \$50 - \$350 and/or suspension up to 30 days	Appearance [N/A] <u>REQUIRED</u>
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Section 11. Subdivision (i) of section 58-32 of Title 35 of the Rules of New York is

amended to read as follows:

§58-32 Vehicle – Markings & Advertising

(i) Marking Specifications for Taxicabs

INSCRIPTION*	LOCATION	SIZE
(c) Medallion number (required)	Front and rear of roof light.	2 ³ / ₄ " to 3" high letters 1/2" thick.
[(d) "OFF DUTY" (required)]	Each end of roof light.	1 ¹ / ₄ " high letters 1/4" thick.]

Section 13. Subdivision (a) of section 58-34 of Title 35 of the Rules of New York is amended to read as follows:

§58-34 Vehicle Equipment

(a) *Roof Light.* A roof light is required on all Taxicabs, as required by the Hack-Up specifications in Chapter 67; the Taxicab Owner must ensure compliance with the following:

(1) *[Off-duty Sign by Manual Switch.* While a Taxicab is in operation for hire, the "Off Duty" sign must not be illuminated in any way other than by a manually operated switch on the Taxicab dashboard.

§58-34(a)(1)	Fine: \$75	Appearance NOT REQUIRED
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(2) *Controlled by Taximeter.* The Taxicab R[r]oof L[l]ight must be automatically controlled by the operation of the Taximeter so that it is lighted only when the Taximeter is in an off position and unlighted when the Taximeter is in a recording position. An Owner must not tamper with the operation of the Taxicab's R[r]oof L[l]ight.

§58-34(a)([2]1)	Fine: \$50 - \$350 and/or suspension up to 30 days	Appearance REQUIRED
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**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 Taxicab Rooflight Rules

REFERENCE NUMBER: 2012 RG 042

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 14, 2012

**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 Taxicab Rooflight Rules

REFERENCE NUMBER: TLC-31

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 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

May 15, 2012
Date