

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 Chapters 58 and 67 to incorporate additional passenger safety and comfort requirements for vehicles use as Taxicabs, in particular requiring vehicles, with exemptions for hybrid electric and accessible vehicles, to be crash tested with an approved partition installed in the vehicle and requiring passenger controlled air conditioning in the rear of vehicles.

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, December 19, 2013. The hearing will be in the hearing room at 33 Beaver Street - 22nd 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 – 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. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by Wednesday, December 18, 2013.

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 Friday, December 13, 2013.

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

Preparing a vehicle to serve as a taxi, or what is known in the industry as “hacking up”, includes installing a TLC authorized partition. The partition, which is installed after the vehicle has been manufactured, is neither designed by the auto manufacturer nor present when the vehicle undergoes federally required safety testing. Installation of the partition can harm the vehicle’s structural integrity, airbag deployment, and overall safety because it adds stiffness to the vehicle’s frame which can affect how the vehicle performs during a side impact, exposing passengers to an increased risk of head and face injuries.

In June 2013, several medical professionals testified at a TLC hearing in favor of crash testing a taxicab vehicle with the partition installed. Dr. John Sherman, M.D., F.A.C.S. testified that the taxi partition has accounted for hundreds of injuries to passengers throughout the years. Similarly, other physicians who have treated passengers in taxicab accidents noted that many of the injuries they see are a result of the partition. Dr. Charles DiMaggio, PhD specifically explained that safety testing with the partition installed would decrease the risk of passenger head and face injuries because such testing would ensure that partitions are designed so that they do not interfere with airbag deployment.

To minimize injury to taxi passengers and drivers resulting from partitions when a vehicle is involved in an accident, the proposed rules require that the vehicles described below be crash tested by auto manufacturers with the TLC authorized partition installed. A limited exception is made for hybrid electric and accessible vehicles, allowing such vehicles to be hacked up as taxicabs until one hybrid electric and one accessible vehicle, respectively, are crash tested with a TLC authorized partition. Requiring crash testing with TLC authorized partitions ensures that all auto manufacturers looking to participate in the New York City taxi market are held to the same high safety standards.

In 2012, the TLC received over 100 passenger complaints about air quality, ventilation, odors, or temperature inside taxicabs. In some cases, the passenger complained that the driver refused to use or adjust the temperature or ventilation. At a City Council hearing on March 5, 2013, Council Member David Greenfield complained about the odor and lack of ventilation in some taxicabs and asked the Commission to address the issue. Giving passengers the ability to control the temperature and ventilation in the back of the taxicab addresses these concerns. The proposed rule also requires that vehicles with a crash-tested, TLC authorized partition have rear-controlled air conditioning.

Specifically, the proposed rule:

- Amends the specifications for vehicles authorized to be used as taxicabs by requiring that all taxicab models be crash tested with a TLC authorized partition installed in the vehicle.

- Amends the specifications for vehicles authorized to be used as taxicabs by requiring that all taxicab models have passenger-controlled rear air conditioning.

The proposed rule also:

- Exempts hybrid electric vehicles from these requirements until a hybrid electric vehicle manufacturer has crash tested a hybrid electric vehicle with a TLC authorized partition installed in the vehicle and the vehicle has passenger-controlled rear air conditioning, after which all hybrid electric vehicles to be used as taxicabs must be crashed tested with a TLC authorized partition installed in the vehicle and have passenger-controlled rear air conditioning,
- Exempts accessible vehicles from this requirement until an accessible vehicle manufacturer has crash tested an accessible vehicle with a TLC authorized partition installed in the vehicle and the vehicle has passenger-controlled rear air conditioning, after which all accessible vehicles to be used as taxicabs must be crashed tested with a TLC authorized partition installed in the vehicle and have passenger-controlled rear air conditioning,
- Allows the Deputy Commissioner for Safety and Emissions, as opposed to the Commission, to approve equivalent protective plates in partitions, consistent with current TLC practices for approving protective plates during the hack up of a vehicle.

These rules are authorized by Section 2303 of the Charter and Sections 19-503 of the Administrative Code of the City of New York.

New material is underlined.

[Deleted material is in brackets.]

Section 1. Paragraphs (2) through (5) of subdivision (b) of section 58-35 of Title 35 of the Rules of the City of New York are renumbered (3) through (6) and a new paragraph (2) is added, to read as follows:

- (2) The Taxicab is a vehicle that has not been crash tested with an approved partition pursuant to §67-04 of these Rules.

Section 2. Section 67-04 of Title 35 of the Rules of the City of New York is amended to read as follows:

§67-04 Original Verification of Taxicab Candidate as Taxicab Model.

- (a) *Meet All Specifications.* A Taxicab Candidate must meet the technical specifications in §67-05, §67-05.1, or §67-05.2 of these Rules, as well as all applicable federal and New York State motor vehicle standards and requirements, in order to become a Taxicab Model.
- (b) *Crash Testing of Taxicab Candidates.* All Taxicab Candidates meeting the technical requirements of §67-05, §67-05.1 or §67-05.2 of these Rules must meet all relevant Federal Motor Vehicle Safety Standards (“FMVSS”) and other applicable National

Highway Traffic Safety Administration (“NHTSA”) safety regulations and must be crash tested with a partition approved by the Commission installed in the vehicle.

(1) Exemption as to Accessible Vehicles: Until such time any Taxicab Candidate that meets the requirements of §67-05.2 of this Chapter, as certified by the Chairperson, has passed the crash testing required by this subdivision, no Taxicab Candidate that meets the requirements of §67-05.2 of this Chapter will be required to be crash tested. Once such a Taxicab Candidate has passed the crash testing required by this subdivision, the requirements of this subdivision will apply to all such taxicab candidates.

(2) Exemption as to Hybrid Electric Vehicles: Until such time any Taxicab Candidate that meets the requirements of §19-533 of the Administrative Code, as certified by the Chairperson, and of §67-05 of this Chapter, has passed the crash testing required by this subdivision, no Taxicab Candidate that meets the requirements of §19-533 of the Administrative Code and of §67-05 of this Chapter will be required to be crash tested. Once such a Taxicab Candidate has passed the crash testing required by this subdivision, the requirements of this subdivision will apply to all such Taxicab Candidates.

(c) Rear Air Conditioning in Taxicab Candidates. All Taxicab Candidates meeting the technical specifications in §67-05, §67-05.1, or §67-05.2 of these Rules must have passenger-controlled air conditioning in the rear seating compartment pursuant to §67-14 of these Rules.

(1) Exemption as to Accessible Vehicles: Until such time as any Taxicab Candidate that meets the requirements of §67.05.2 of this Chapter, as certified by the Chairperson, has passed the crash testing required by subdivision (b) of this section and complies with the requirements of §67-14(b)(3) of this Chapter, no Taxicab Candidate that meets the requirements of §67-05.2 of this Chapter will be required to comply with the requirements of §67-14(b)(3) of this Chapter. Once such a Taxicab Candidate has passed the crash testing required by subdivision (b) of this section and complies with the requirements of §67-14(b)(3) of this Chapter, all such Taxicab Candidates will be required to comply with the requirements of §67-14(b)(3) of this Chapter.

(2) Exemption as to Hybrid Electric Vehicles: Until such time as any Taxicab Candidate that meets the requirements of §19-533 of the Administrative Code, as certified by the Chairperson, and of §67-05 of this Chapter, has passed the crash testing required by subdivision (b) of this section and complies with the requirements of §67-14(b)(3) of this Chapter, no Taxicab Candidate that meets the requirements of §19-533 of the Administrative Code and of §67-05 of this Chapter will be required to comply with the requirements of §64-14(b)(3) of this Chapter. Once such a Taxicab Candidate has passed the crash testing required by subdivision (b) of this section and complies with the requirements of §67-14(b)(3) of this Chapter, all such Taxicab

Candidates will be required to comply with the requirements of §67-14(b)(3) of this Chapter.

Section 3. Subdivision (j) of section 67-05.1 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (j) *Alternative specifications.* Any vehicle model that complies with the specifications in § 67-05, except that it is powered solely by gasoline or clean diesel, and has been crash tested with a partition approved by the Commission, as required by §67-04(b) of these Rules, and has a rear-controlled air conditioner, as required by §67-14(b)(3) of these Rules, may be Hacked-up for use as a Taxicab with an Unrestricted Medallion even if the vehicle does not comply with the vehicle specifications in this section.

Section 4. Paragraph (3) of subdivision (b) of section 67-10 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (3) The protective plate must join or overlap with the transparent portion of the partition and extend downward to the floor of the vehicle. The protective plate must be a plate of 0.085-inch thick bullet-resistant ballistic steel or its equivalent [recommended by the Chairperson and approved by the Commission] if approved by the Deputy Commissioner for Safety and Emissions. The protective plate must be installed inside and covering the front seat's entire backrest.

Section 5. Section 67-14 of Title 35 of the Rules of the City of New York is amended to read as follows

- (a) *Requirement.* All vehicles must be equipped with an air conditioner. The air conditioner must be in good working condition [from May 1st through September 30th each year]. In any vehicle[s] equipped with a partition, the air conditioner must include an auxiliary unit for the rear seating area.
- (b) *Technical Specifications.*
- (1) The auxiliary unit must be either standard equipment or optional equipment built into the vehicle by the vehicle manufacturer.
- (2) The auxiliary unit must have controls that passengers may operate in the rear passenger area.
- (3) Except as provided in section 67-04(c)(1) and (2) of these Rules, vehicles must have rear controlled air conditioning (including cooling and heating capabilities), allowing rear passengers to control temperature, ventilation speeds, and on/off features of the air conditioning system.

Section 6. Severability

If any part of this rule or the application thereof to any person or circumstances is declared invalid by a court of competent jurisdiction, the remainder of this rule or the application of this rule to other persons and circumstances shall remain in full force and effect.

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 Vehicle Specifications (Crash Testing With Partition and Passenger Controlled Rear Air Conditioning)

REFERENCE NUMBER: 2011 RG 097

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: November 13, 2013

**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 Vehicle Specifications (Crash Testing With Partition and Passenger Controlled Rear Air Conditioning)

REFERENCE NUMBER: TLC-57

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 X. Navarro
Mayor's Office of Operations

November 12, 2013
Date