

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 set forth standards for the issuance of grants to persons acquiring vehicles to be used as Accessible Street Hail Liveries.

When and where is the Hearing? The Commission will hold a public hearing, at which the public and interested parties are invited to submit comments and testimony on the proposed rules, at 9:00 a.m. on October 17, 2013. This hearing will be held in the Commission's public hearing room at 33 Beaver St., New York, NY on the 19th Floor.

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 Hearings.** Anyone who wants to comment on the proposed rule at the public hearings 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 session begins on October 17, 2013. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by October 16, 2013.

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 Thursday, October 10, 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, together with the provisions of state legislative bills S5825 and A8496 signed into law on December 23, 2011 and the provisions of S6118-A and A8691-A signed into law on February 17, 2012, 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. As provided in the legislation, the TLC will make grants totaling up to \$54 million available for SHL licensees who plan to purchase, or upfit, a vehicle for use as an Accessible Street Hail Livery.

As it moves forward to implement the program provided for in the legislation, the TLC is proposing rules that will govern the grant program. These rules provide that

- Grants will be limited to \$15,000.
- Grants can be used to purchase an accessible vehicle for use as a street hail livery or have a vehicle retrofitted to be accessible.
- Vehicles can be no more than three years old and must have fewer than 30,000 miles on the odometer.
- The vehicle must be:
 - A pre-approved purpose-built accessible vehicle, or
 - Upfitted as part of a pre-approved package and provided by a pre-approved dealer, or
 - Otherwise approved by the TLC
- Grants will be paid in installments over three years.
- The TLC may withhold grant installments if it determines, among other things, that a recipient is no longer operating the vehicle as an Accessible Street Hail Livery.

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

New Material is underlined

Section 1. Chapter 82 of Title 35 of the Rules of the City of New York is amended by adding a new subchapter C, to read as follows:

Subchapter C: Grants for Accessible Street Hail Liveries.

§82-64 Scope of this Subchapter

- (a) To establish the standards and requirements for persons applying for a grant to purchase or upfit a vehicle to be used as an Accessible Street Hail Livery.
- (b) To establish standards and requirements for persons who receive a grant under this Subchapter.
- (c) No more than \$54,000,000 in grants will be issued under this Subchapter

§82-65 Definitions Specific to this Subchapter

- (a) Accessible Vehicle in this subchapter means a Vehicle to be used with a Street Hail Livery License and is designed to permit access to and enable the transportation of persons in wheelchairs.
- (b) Assignee means the individual or Business Entity accepting, through a Payment Assignment Agreement, the Grantee's right, title and interest for all payments arising under a Grant Program Agreement, and who is approved by the Chairperson.
- (c) Assignor means the Grantee assigning, through a Payment Assignment Agreement, the Grantee's right, title and interest for all payments arising under a Grant Program Agreement.
- (d) Grant means the funds awarded to a Grantee to be applied towards the costs of the purchase or retrofitting of a Qualified Vehicle to be used with an Accessible Street Hail Livery License.
- (e) Grant Applicant means the individual or Business Entity applying for a Grant under this Chapter.
- (f) Grant Program Agreement means the agreement document entered into by the Grantee which contains the terms and conditions required to receive Grant funding.
- (g) Grantee means a Grant Applicant who has submitted and completed all of the requirements of the Grant Program Agreement, and who has been approved for a Grant.

- (h) NMEDA QAP means the National Mobility Equipment Dealer’s Association Quality Assurance Program.
- (i) Payment Assignment Agreement means the agreement document entered into by the Grantee which allows Grantee to assign, transfer, and convey all of Grantee’s right, title, and interest for payment arising under the Grant Program Agreement to an Assignee.
- (j) Qualified Vehicle means a vehicle to be used as an Accessible Vehicle with an Accessible Street Hail Livery License and that meets all of the following:
 - (1) The vehicle has fewer than 30,000 miles on the odometer.
 - (2) The vehicle is of a model year that is of the current or next three most recent model years at the time the Grant Applicant applies for a Grant.
 - (3) The vehicle must be capable of being used as an Accessible Street Hail Livery and
 - (i) must have otherwise been manufactured by an original equipment manufacturer (“OEM”) to be an Accessible Vehicle in a program approved in advance by the Chairperson; or
 - (ii) must have been modified following manufacture by OEM-approved second-stage manufacturer in a program approved in advance by the Chairperson; or
 - (iii) must be manufactured or modified in a way approved in advance by the Chairperson.
 - (4) The vehicle, if modified, meets the NMEDA QAP standards for vehicle accessibility conversion.

§82-66 Grant Eligibility

- (a) An individual or Business Entity which holds or is applying for an Accessible Street Hail Livery License is eligible to apply for a Grant.
- (b) An individual or Business Entity which holds an Accessible Street Hail Livery License, and meets all of the requirements of the Grant Program Agreement and these Rules, is eligible to receive a Grant.

§82-67 Grant Application

- (a) Accessible SHL License required. No Grant will be issued to any person or Business entity which does not hold an Accessible Street Hail Livery License.

- (b) Application. A Grant Applicant must file an application for a Grant on the form and in the manner specified by the Chairperson and must provide all documentation required. The Grant Applicant is subject to all requirements of this Chapter regarding representations and information provided to the Chairperson.
- (c) Grant Program Agreement. A Grant Applicant must file a Grant Program Agreement on the form and in the manner specified by the Chairperson and must provide all documentation required.
- (d) Qualified Vehicle. With the Grant application, or within 60 days of the Grant application, a Grant Applicant must present:
 - (1) Proof of purchase or lease of a Qualified Vehicle in the form specified by the Chairperson, and
 - (2) if the vehicle at the time of purchase or lease has not been modified so that it qualifies as an Accessible Street Hail Livery, proof in the form specified by the Chairperson of a contract for modification so that the vehicle will be, once modified, a Qualified Vehicle.
- (e) No Outstanding Fines or Fees. No grants will be issued to any Grant Applicant who owes the Commission any money for fines, fees, or other reasons or who has any open summonses issued by the Chairperson outstanding against him or her.
- (f) Other Causes for Denial. The Chairperson can deny a Grant application for any reason, in his or her sole discretion. In addition to other reasons set forth in this Subchapter, the Chairperson will deny an application for a Grant if any of the following is true:
 - (1) The Grant Applicant has failed to submit all required paperwork within 60 days of submitting the Grant Application.
 - (2) The history of the Grant Applicant as a licensee of the Commission indicates that, in the judgment of the Chairperson, a Grant should not be awarded.
 - (3) There are material errors or omissions in the Grant Application or accompanying documentation.
 - (4) A Qualified Vehicle is not hacked up and/or has not passed inspection within 180 days of the date that the Accessible Street Hail Livery License is issued.

§82-68 Grant Amounts and Payments

- (a) Grant Amounts.

- (1) *New Accessible Vehicles.* The maximum Grant amount is \$15,000. This amount will be approved only for Qualified Vehicles which meet all of the following:
 - (i) Be of the most recent model year or immediately preceding model year and,
 - (ii) Have fewer than 1,000 miles on the odometer.

- (2) *Used Accessible Vehicles.* The maximum Grant amount is \$10,000 for other Qualified Vehicles.
 - (i) No Grant will be issued to any vehicle of a model year more than 3 years older than the most recent model year,
 - (ii) No Grant will be issued to any vehicle that has more than 30,000 miles on the odometer.

- (3) Only one Grant will be awarded for each:
 - (i) Accessible Street Hail Livery License, and
 - (ii) Qualified Vehicle based on the Vehicle Identification Number (VIN).
 - (iii) If a Grant Applicant presents with its application a vehicle or Accessible Street Hail Livery License for which any Grant Applicant or Grantee previously received a Grant, the application for the subsequent grant will be denied.

- (b) *Grant Payment.*
 - (1) *Payment.* No funds will be released for any Grant for any approved application until the Qualified Vehicle is hacked up and has passed the inspection required by Section 82-30 of this Chapter.
 - (2) Grant payments will be made only to Grantees who are in full compliance with the requirements of the Grant Program Agreement.
 - (3) Grant payments will be made in three equal installments:
 - (i) *First Yearly Grant Payment.* Grant payment will be made after the effective date of the Grant Program Agreement and after the Qualified Vehicle has met the requirements of paragraph (1) of this subdivision.
 - (ii) *Second Yearly Grant Payment.* Grant payment will be made 12 months after the vehicle has passed the initial vehicle inspection required by

Section 82-30 of this Chapter, provided the Grantee continues to meet the requirements of paragraph (1) of the subdivision and all applicable requirements of this Chapter.

(iii) *Final Yearly Grant Payment.* Grant payment will be made 24 months after the vehicle has passed the initial vehicle inspection required by Section 82-30 of this Chapter, provided the Grantee continues to meet the requirements of paragraph (1) of this subdivision and all applicable requirements of this Chapter.

(4) *Conditions to Second and Final Grant Payments.* The second and final yearly grant payments will be made only to Grantees who meet the requirements of paragraph (3) of this subdivision and all of the following conditions:

(i) The Grantee must be in full compliance with the Grant Agreement.

(ii) The Qualified Vehicle must remain in service and be in use as an Accessible Street Hail Livery.

(iii) The Qualified Vehicle must have completed at least 500 passenger trips, as indicated by Trip Data from LPEP, during the 12 months following each grant payment.

(iv) The Qualified Vehicle must have taken and passed its most recent inspection.

(v) The Accessible Street Hail Livery License approved for use with the Qualified Vehicle must remain Valid, and must not be suspended, revoked, terminated, or non-renewed.

(5) *Grant Payment Assignments.* A Grantee will be permitted to assign Grant payments to an Assignee by submitting to the Commission a completed Payment Assignment Agreement form as specified by the Chairperson and providing all documentation required. The following restrictions apply to Payment Assignment Agreements:

(i) Only one Payment Assignment Agreement will be permitted for each Grant Program Agreement.

(ii) The Payment Assignment Agreement will apply to all Grant payments under the Grant Program Agreement.

(iii) The Payment Assignment Agreement Assignee will have no greater right to payment than that of the Grantee.

- (6) Grants are not Transferrable. Except for assignments permitted by paragraph (5) of this subdivision, Grants are not transferable.
- (7) Exceptions to non-transferability. Notwithstanding paragraph (6) of this subdivision, a Grant can be transferred, with the consent of the Assignee as applicable, to a new Grantee as follows:
- (i) Both the Qualified Vehicle and the Accessible Street Hail Livery License are transferred to a new individual or Business Entity; or
 - (ii) The Qualified Vehicle is transferred to a new individual or Business Entity for use with an Accessible Street Hail Livery License which has not previously received a Grant; or
 - (iii) The Grantee transfers the Qualified Vehicle to a different Accessible Street Hail Livery License also owned by the Grantee, and that License has not previously received a grant.
 - (iv) The Grantee or the new individual or Business Entity seeking the transfer of a Grant as provided above must submit an application to transfer the Grant. Only the remaining amount of the Grant that is undistributed can be transferred.
 - (v) If Grant payments from the initial Grant Program Agreement were assigned through a Payment Assignment Agreement the Assignee must consent in writing to the transfer.
 - (vi) No Grant may be transferred until the transfer is approved in writing by the Chairperson. The Grantee or the new individual or Business Entity seeking to transfer a Grant must file an application to transfer no fewer than 60 days before they expect to transfer the Grant.

§82-69 Grantee Requirements

- (a) Services.
- (1) Grantee must ensure that the Qualified Vehicle purchased or retrofitted using Grant funds remains in use with an Accessible Street Hail Livery License in New York City during the term of Grant Program Agreement.
 - (2) Grantee must maintain all equipment in the Qualified Vehicle, including equipment necessary for wheelchair accessibility, in good working order and must comply with all conditions and requirements of the Grant Program Agreement.

(b) Accessible Street Hail Livery License.

(1) Grantee must continue to own the Accessible Street Hail Livery License and to use the Accessible Street Hail Livery License with the Qualified Vehicle purchased or retrofitted in part with Grant funds.

(c) Failure to Meet Requirements.

(1) Failure by Grantee to meet the requirements of the Grant Program Agreement or of these Rules will result in the immediate termination of the Grant Program Agreement and the discontinuance of all remaining Grant payments.

(2) Exceptions.

(i) Notwithstanding paragraph (1) above, Grantee will have ten (10) business days to comply with orders to repair or replace the Qualified Vehicle, or as otherwise indicated in the Grant Program Agreement.

(ii) The Grant will terminate upon a transfer of the Qualified Vehicle or of the Accessible Street Hail Livery License except as provided in section 82-68 (b)(7) above.

(3) If TLC terminates the Grant Program Agreement, Grantee must return, as stated in the Grant Program Agreement, that portion of the Grant payments that TLC in its sole discretion directs shall be returned– or a prorated amount based on the number of months the Qualified Vehicle was in service during the term of the Grant Program Agreement.

(4) Grantee may terminate the Grant Program Agreement at any time during the term of the agreement upon at least 10 days written notice to TLC and by repaying the full amount of the Grant payments or such other amount determined by TLC based on the number of months the Grantee provided the required services.

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

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

RULE TITLE: Rule Governing Accessible Street Hail Livery Grant Program

REFERENCE NUMBER: 2013 RG 079

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: September 12, 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: Rule Governing Accessible Street Hail Livery Grant Program

REFERENCE NUMBER: TLC-54

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

September 12, 2013
Date