

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 (“TLC”) is proposing to amend its rules relating to the issuance of for-hire vehicle (“FHV”) licenses to battery electric vehicles.

When and where is the hearing? TLC will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 am on June 22, 2021. The public hearing will be held online using Zoom. There will be no in person public hearing. The public hearing will be livestreamed on TLC’s website at www.nyc.gov/tlc. To participate in the public hearing, please e-mail the TLC at tlcrules@tlc.nyc.gov or call TLC at 212-676-1135 by June 21, 2021. After you have signed up to speak, TLC will provide you with a Zoom URL to enter in on your computer or dial-in via phone number if you prefer to call in.

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

- **Website.** You can submit comments to the TLC through the NYC rules website at <http://rules.cityofnewyork.us>
- **Email.** You can email comments to tlcrules@tlc.nyc.gov
- **Mail.** You can mail comments to Taxi and Limousine Commission, Office of Legal Affairs, 33 Beaver St, 22nd Floor, New York, NY 10004
- **Fax.** You can fax comments to the Taxi and Limousine Commission, Office of Legal Affairs, at 212-676-1102
- **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 or by emailing at tlcrules@tlc.nyc.gov by June 21, 2021. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes, you must submit written comments by June 19, 2021.

What if I 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. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by June 18, 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 <http://rules.cityofnewyork.us/>. A

few days after the hearing, copies of all comments submitted online and copies of all written comments will be available by request by emailing tlcrules@tlc.nyc.gov and a transcript of the hearing will be available online at www.nyc.gov/tlc and at the public at the Office of Legal Affairs.

What authorizes TLC to make this rule? Sections 1043 and 2303 of the City Charter and sections 19-503 and 19-550(c) of the City Administrative Code authorize TLC 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 TLC rules? The Taxi and Limousine Commission rules are in title 35 of the Rules of the City of New York.

What laws govern the rulemaking process? TLC 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 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

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 proposed 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.

**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 Issuance of For-Hire Vehicle Licenses

REFERENCE NUMBER: 2021 RG 031

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 10, 2021

**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 Issuance of For-Hire Vehicle Licenses

REFERENCE NUMBER: TLC-120

RULEMAKING AGENCY: Taxi & 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 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

May 11, 2021
Date