

## NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

### Notice of Promulgation of Rules

**Notice is hereby given in accordance with section 1043(b) of the Charter of the City of New York (“Charter”) that the Taxi and Limousine Commission (“TLC”) promulgates rules setting forth Rules amending the technical specifications for Technology Enhancement Project (T-PEP) systems supplied by Authorized T-PEP Providers and containing requirements to authorize such providers to sell, lease, make available for use, install, service and repair T-PEP Systems for Taxicabs.**

These rules are promulgated pursuant to sections 1043 and 2303(b) of the Charter and section 19-503 of the Administrative Code of the City of New York.

On June 20, 2013, a public hearing was held by the TLC at 33 Beaver St., 22<sup>nd</sup> Floor, New York, New York. These rules were approved at a Commission meeting at TLC’s offices at 33 Beaver St., 22<sup>nd</sup> Floor, New York, New York, on June 20, 2013. These rules will take effect 30 days after publication.

## Statement of Basis and Purpose of Rule

On December 13, 2012, the Taxi and Limousine Commission (“TLC”) approved rules, which established a formal procedure by which a vendor can become an Authorized T-PEP Provider, set forth technical requirements for TPEP systems supplied by Authorized Providers, and established the services to be provided by such Providers. These rules amend TLC’s TPEP rules in order to address technical considerations that were identified by industry groups and TLC staff. Additionally, these rules establish, and require drivers to use, a new “On-Duty Unavailable Code” to be used when a taxicab driver accepts an E-Hail or a dispatch from an accessible dispatch program and is en route to pick up the passenger.

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.

New material is underlined.

[Material inside brackets indicates deleted material.]

§1. Subdivisions (d) and (e) of section 53-08 of Title 35 of the Rules of the City of New York are amended to read as follows:

- (d) [*Taxicab Off-Duty Light.*] On-duty Unavailable Code. An Approved Driver of an Accessible Taxicab must [turn on the “Off Duty” light] enter the correct on-duty unavailable code into the TPEP when the Driver begins to travel to the pick up location.

§53-08(d)	Fine: \$100	Appearance NOT Required
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- (e) *No Prior Pick-Ups.* An Approved Driver of an Accessible Taxicab who has accepted a dispatch from the Accessible Taxi Dispatcher must not accept any other Passenger before picking up the Wheelchair using Passenger. Note: This includes acceptance of another trip using an approved e-hail application.

§53-08(e)	Fine: \$100	Appearance NOT Required
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§2. Section 54-15 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (n), to read as follows:

(n) Unavailable Procedures for a Taxicab.

(1) Upon accepting a trip from the accessible dispatch program pursuant to section 53-08 of these Rules or an approved E-Hail App, a Driver must enter the appropriate on-duty unavailable code into the TPEP.

§54-15(n)(1)	<u>Fine: \$100 if plead guilty before a hearing; \$150 if found guilty following a hearing.</u>	<u>Appearance NOT REQUIRED</u>
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§3. Subdivision (b) of section 54-20 of Title 35 of the Rules of the City of New York is amended by adding a new paragraph (15), to read as follows:

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

\* \* \*

(15) The Driver has accepted a trip from the accessible dispatch program pursuant to section 53-08 of these Rules or an approved E-Hail App and has entered the appropriate on-duty unavailable code into the TPEP.

§4. Subparagraph (v) of paragraph (1) of subdivision (d) of section 67-15 of Title 35 of the Rules of the City of New York is amended to read as follows:

(1) Unless exempt under §58-41(c), every Taxicab must be equipped with T-PEP that includes a passenger information monitor that meets the following requirements:

\* \* \*

(v) [At the Medallion owner's option, t]The monitor may also be used to display limited media content, which may include commercial advertising and commercial sponsorships as permitted pursuant to the T-PEP Provider's authorization by the Commission.

§5. Subdivision (y) of section 75-03 of Title 35 of the Rules of the City of New York is amended to read as follows:

(y) *On-duty Location Positioning.* The date, time and geographic position, including latitude, longitude, and human-readable street address, of an on-duty Taxicab (with Passengers) at the commencement and end of each Passenger fare, and (with or without Passengers) at each point in the vehicle's route in near real time at an interval no less frequent than every two minutes, including a Taxicab with the on-duty unavailable code entered pursuant to §75-25(b)(5) of these Rules.

§6. The introductory paragraph and paragraphs (1), (2), and (4) of subdivision (b) of section 75-05 of Title 35 of the Rules of the City of New York are amended to read as follows:

(b) *Documentation and Demonstration Model for TPEP Approval.* The Applicant must submit with its Authorization application the following documentation for each TPEP being made available by the TPEP Provider[:]. All documentation pertaining to an

independent third party must be accompanied by a signed authorization from the Applicant authorizing the Commission to contact the independent third party directly and authorizing the independent third party to respond to inquiries from the Commission.

(1) Acceptance Testing Documentation

- (i) An acceptance test plan that uses information technology industry testing tools, techniques, and methodologies designed to comprehensively test whether the TPEP and related services comply with all of the requirements set forth in §75-25(a)-(e), (i), and (l)-(p) of these Rules, or as such requirements may be waived or modified by the Commission pursuant to subdivision (g) of this section;
- (ii) Documentation demonstrating that an independent third party [certified] that is accredited by the American National Standards Institute-American Society of Quality National Accreditation Board (“ANAB”) to perform International Organization for Standardization (“ISO”) 9001 certifications has performed acceptance testing consistent with the acceptance test plan, and [certification by the independent third party of] the successful results of the acceptance testing;

(2) Security Testing Documentation

- (i) A security test plan that uses information technology industry testing tools, techniques, and methodologies designed to comprehensively test whether the TPEP and related services comply with all of the requirements set forth in §75-25(f) and §76-03 of these Rules [and Commission security standards to be promulgated at a later time], or as such requirements may be waived or modified by the Commission pursuant to subdivision (g) of this section;
- (ii) Documentation, to be renewed and resubmitted to the TLC every twelve (12) months, demonstrating that an independent third party [certified by ISO 27001] that is a Qualified Security Assessor (“QSA”) company[,] has performed security testing of the TPEP and related services to determine compliance with the security standards set forth in §75-25(f)(1)(i) of these Rules [and Commission security standards to be promulgated at a later time], or as such standards may be waived or modified by the Commission pursuant to subdivision (g) of this section, and [certification by the independent third party of ]the successful results of the security testing;
- (iii) Documentation, to be renewed and resubmitted to the TLC every twelve (12) months, demonstrating that an independent third party that is either a QSA company or a company accredited by ANAB to certify ISO 27001 has performed security testing of the TPEP and related

services to determine compliance with the security standards set forth in §75-25(f)(1)(ii) and (iii) of these Rules, or as such standards may be waived or modified by the Commission pursuant to subdivision (g) of this section, and the successful results of the security testing;

(4) Usability Testing Documentation

- (i) A usability test plan to comprehensively test the usability of the TPEP for both Taxicab Drivers and Passengers, including but not limited to: software ergonomics, human system interaction processes, displays and display-related hardware, user performance test methods, and tactile and haptic interactions (in accordance with ISO 9241 100, 200, 300, and 900 series), or a comparable test plan that meets Commission approval;
- (ii) Documentation demonstrating that an independent third party [certified by ISO 9241] that performs usability testing, has performed usability testing of the TPEP consistent with the usability test plan, and [certification by the independent third party of ]the successful results of the usability testing;

§7. Subparagraphs (iii) and (v) of paragraph (8) of subdivision (e) of section 75-05 of Title 35 of the Rules of the City of New York are amended to read as follows:

(8) Proof of Insurance.

\* \* \*

- (iii) For each policy required under this subdivision, except for Workers' Compensation Insurance, Disability Benefits Insurance, Employer's Liability Insurance, and Unemployment Insurance, the Applicant must file with the Commission a [Certificate of Insurance] Declarations Page issued by the insurer [with the Commission]. All [Certificates of Insurance] Declaration Pages must be:
  - (A) in a form acceptable to the Commission and certify the issuance and effectiveness of such policies of insurance, each with the specified minimum limits;
  - (B) accompanied by the endorsement in the Applicant's Commercial General Liability Insurance policy by which the City has been made an additional insured pursuant to subdivision (e)(1)(iii) above; and

- (C) accompanied by either a duly executed “Certification by [Broker] Insurer” in the form provided by the Commission or copies of all policies referenced in the [Certificate of Insurance] Declarations Page. If complete policies have not yet been issued, binders are acceptable, until such time as the complete policies have been issued, at which time such policies must be submitted.

\* \* \*

- (v) Acceptance by the Commission of a [certificate] Declarations Page or a policy does not excuse the Provider from maintaining policies consistent with all provisions of this subdivision (and ensuring that subcontractors maintain such policies) or from any liability arising from its failure to do so.

§8. Paragraph (3) of subdivision (h) of section 75-05 of Title 35 of the Rules of the City of New York, relating to the submission of itemized revenue reports by TPEP Providers, is REPEALED, and paragraphs (4) through (7) are renumbered paragraphs (3) through (6).

§9. Section 75-12 of Title 35 of the Rules of the City of New York is amended to read as follows:

§ 75-12 Business requirements for Maintaining Authorization – Premises

A TPEP Provider must operate its business only within the structures described in the certificate of occupancy for the premises. No installation, service, or repairs of any type can be performed on a public street or any facility other than the TPEP Provider’s premises or a facility authorized by the TPEP Provider to install, service, and/or repair TPEPs. [A] Any facility authorized by the TPEP Provider to install, service, and/or repair TPEPs must display a sign indicating it is so authorized. The TPEP Provider must provide a list of all such authorized facilities to the Commission.

§10. Subparagraph (i), item (R) of subparagraph (v), subparagraph (vii), and item (C) of subparagraph (xii) of paragraph (2) of subdivision (a) of section 75-25 of Title 35 of the Rules of the City of New York are amended to read as follows:

- (i) The following information must be provided to Passengers via the PIM (this requirement may be satisfied if the following information is contained in the Prologue provided by the Commission pursuant to §75-25(d)(2)(i)(A) of these Rules or in the Taxi Information provided by the Commission pursuant to §75-25(d)(2)(viii) of these Rules):

\* \* \*

- (v) The TPEP must be able to generate an accurate receipt for payment of fare, whether payment is made by cash, credit/debit/prepaid card, E-Hail App that provides for E-Payment, or Digital Wallet Application, and such receipt must be able to be generated for each Passenger making a payment. Upon the Passenger's request, a receipt either in hard copy form or in electronic form must be transmitted to the Passenger. The receipt must contain the following information:

\* \* \*

- (R) the name and 24-hour phone number of the Agent (if there is an Agent), the Fleet (if the Fleet is the Agent), or the Medallion Owner (if there is no Agent), when said phone numbers are provided to the TPEP Provider by the Commission.

\* \* \*

- (vii) The credit/debit/prepaid card reader may be either integral to the Passenger Information Monitor or a freestanding unit that is securely attached to the interior structure of the vehicle and located near the Passenger Information Monitor or in a location convenient to the Passenger, subject to the approval of the Commission. In its decision to approve the location and installation of a freestanding card reader, the TLC will consider the safety of the Passenger, Passenger ergonomics, the impact of modifications on the proper functioning of the vehicle or other required taxicab equipment, and any comments provided by Authorized TPEP Providers and industry, passenger, or safety organizations. However, nothing herein shall require the Authorized TPEP Provider to alter or replace the location or installation of any freestanding card reader already approved by the TLC in vehicle models in use as Medallion Taxicabs as of June 20, 2013. The card reader [must support bi-directional card swiping,] must comply with contactless card requirements, must be Near Field Communication (NFC)-enabled, and must be compliant with PCI Standards;

\* \* \*

- (xii) The TPEP must be capable of generating the following payment data, whether payment is made by cash, credit/debit/prepaid card, E-Hail App that provides for E-Payment, or Digital Wallet Application, as further described in subdivision (c) of this section:

\* \* \*

- (C) end-of-shift data summarizing the number of fares, the total fare amount, and as applicable, the number of credit/debit/prepaid card[,] transactions (including trips paid by E-Hail App that provides for E-Payment that are processed through the TPEP

Provider's payment gateway) [transactions] and the total fares of such transactions. End-of-shift data must be made available to the Taxicab Driver by printing from the Taximeter or accessing electronically, at the Taxicab Driver's preference, and must contain the following information[;]:

(I) Medallion number;

(II) Taxicab Driver's License number;

(III) shift start date and time;

(IV) shift end date and time;

(V) distance traveled over the duration of the shift;

(VI) number of cash trips;

(VII) total cash fares collected;

(VIII) number of credit/debit/prepaid card trips (including trips paid for by E-Hail App that provides for E-Payment that are processed through the TPEP Provider's payment gateway);

(IX) number of credit/debit/prepaid card trips (including trips paid for by E-Hail App that provides for E-Payment that are processed through the TPEP Provider's payment gateway) requiring a signature;

(X) total credit/debit/prepaid fares (including fares paid for by E-Hail App that provides for E-payment that are processed through the TPEP Provider's payment gateway) collected; and

(XI) total credit/debit/prepaid tips (including tips paid for by E-Hail App that provides for E-Payment that are processed through the TPEP Provider's payment gateway) collected[;];

(XII) number of trips paid by E-Hail App that provides for E-Payment;

(XIII) number of trips paid by E-Hail App that provides for E-Payment requiring a signature;

(XIV) total fares collected by E-Hail App that provides for E-Payment;



(XV) total tips collected by E-Hail App that provides for E-Payment;].

§11. Paragraph (5) of subdivision (b) of section 75-25 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (5) The DIM must enable the Taxicab Driver to enter the following [“]off-duty[”] and on-duty unavailable [two-digit] codes, and any other codes designated by the Commission, by selection of one or two push-buttons:
- (i) Off-duty codes:
    - (A) 01, Going Home;
    - [ii] (B) 02, Relief Time;
    - [iii] (C) 03, Off-Duty;
    - [iv] (D) 04, Defective Equipment;
    - [v] 05, E-Hail Accepted]
    - (E) 05, No Charge; and
    - (F) 06, Dispute.
  - (ii) On-duty unavailable codes:
    - (A) 07, Unavailable – En Route E-Hail; and,
    - (B) 08, Unavailable – En Route Accessible Dispatch.

Upon entry of [a] either an off-duty code or an on-duty unavailable code, the TPEP must produce a receipt for the Taxicab Driver showing the two-digit code, the descriptor, and the date and time of entry of the code. In addition, entry of either an off-duty code or an on-duty unavailable code must be captured as a part of the Trip Data as described in paragraph (2) of subdivision (c) of this section, the Taxicab’s Medallion light must automatically go off, and the Taximeter must be disengaged until the Taxicab Driver either logs back on-duty or logs available/arrived on scene via the TPEP[;]. On-duty Location Positioning data

must continue to be made available in Trip Data for Taxicabs while they are in an on-duty unavailable status, to comply with On-Duty Location Positioning requirements.

§12. Subparagraphs (xiii), (xxii) and (xxiii) of paragraph (2) of subdivision (c) of section 75-25 of Title 35 of the Rules of the City of New York are amended to read as follows:

- (2) The Trip Data to be collected and transmitted must include the information set forth below. For purposes of this subdivision, all times are required to be measured to the hour, minute, and second:

\* \* \*

- (xiii) all changes to the Taxicab Driver’s on or off-duty status and the date, time, [and] location (latitude, longitude, and human-readable street address), and meter mileage (with and without fare) when a change occurs. This includes the date, time, and location (latitude, longitude, and human-readable street address) when all on-duty unavailable and off-duty codes referred to in paragraph (5) of subdivision (b) of this section are entered by a Taxicab Driver, and the date, time, and location (latitude, longitude, and human-readable street address) when the Taxicab Driver goes back on-duty from the Taximeter and/or TPEP;

\* \* \*

- (xxii) All rate codes in effect during a trip from the Taximeter, and the rate of fare, [ and] the times and locations (latitude, longitude, and human-readable street address), and meter mileages (with and without fare) when such rate of fare was in effect, including but not limited to the time and location when Rate Code 4 went into effect and the fare at the time Rate Code 4 was initiated from the Taximeter and/or TPEP. In addition to collecting and transmitting the information in this subparagraph, the TPEP must display the rate codes in effect during a trip from the Taximeter; and

- (xxiii) [All meter-initiated codes] A flag indicating whether or not the Trip Data was a part of a store-and-forward event.

§13. Subitem (I) of item (C) of subparagraph (i), and subparagraph (vi) of paragraph (2) of subdivision (d) of section 75-25 of Title 35 of the Rules of the City of New York are amended to read as follows:

- (2) Required features relating to PIM content are as follows:

\* \* \*

- (C) Passenger Surveys. A PIM must permit the Passenger to take in-vehicle surveys, the results of which are to be provided to the Commission on a daily basis electronically as described in item (II) below. The option for a Passenger to elect to participate in surveys must be prominently displayed and available by link or button on the main home screen of the PIM using verbiage and design specified or approved by the Commission for easy access by the Passenger. This link or button must comply with the size and viewing requirements in subparagraph (x) of this paragraph (2).

(I) Survey Distribution and Management. The TPEP must be able to allow for the targeted delivery of surveys (by survey type) to all Taxicabs or to a subset of Taxicabs, specified by full or partial Medallion number, [full or partial Taxicab Driver's License number,]random subset of Taxicabs (specified by number or percentage), or Authorized TPEP Provider. The TPEP must support the delivery of up to five surveys to a single TPEP unit at a time, and the Commission must be able to update survey content in accordance with [clause] item (E) of this subparagraph.

\* \* \*

- (vi) Minimally Required TLC Content. Notwithstanding any other provision to the contrary, a PIM that does not display commercial advertising and/or sponsorships must feature minimally required TLC Content including the Prologue and Epilogue, up to one minute of TLC Audio / Visual Content, all Emergency PSAs, toll and rate code notifications, and all on-demand content that is activated by the Passenger using links or buttons as described elsewhere in this paragraph (such as Passenger surveys, Contact 311, Taxi Information, Channel 2, and TLC Feedback). A PIM that does not display commercial advertising and/or sponsorships may [at the Medallion Owner's option] feature news and entertainment-based content as described in subparagraph (v) of this paragraph.

§14. Paragraph (3) of subdivision (e) of section 75-25 of Title 35 of the Rules of the City of New York, relating to the circumstances under which a taxicab driver may engage rate codes on a TPEP system, is REPEALED, and paragraphs (4) through (6) are renumbered paragraphs (3) through (5).

§15. Paragraph (1) of subdivision (f) of section 75-25 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (f) *Security.*

- (1) All features of the TPEP, including the collection, transmission and maintenance of data by the TPEP Provider, required by this section must conform to the following security standards:
  - (i) Applicable PCI Standards;
  - (ii) Department of Information Technology and Telecommunications Citywide Information Security Policy for Service Providers and Encryption Standards (“DOITT Standards”), currently located on the web at <http://www.nyc.gov/html/doitt/html/business/security.shtml>; and
  - (iii) [Commission security standards to be promulgated at a later time] All security standards contained in Chapter 76 of the TLC Rules.

§16. Subdivision (j) of section 75-25 of Title 35 of the Rules of the City of New York is amended to read as follows:

(j) *Critical Performance Failures.* A Critical Performance Failure exists when any of the following conditions are satisfied:

- (1) Eight (8) percent or more of the credit card processing units installed by a TPEP Provider are unable to process payment by credit/debit/prepaid card beyond the five (5) floor-limit approved transactions provided for in Section 75-25(a)(2)(x) of these Rules for more than four (4) consecutive hours;
- (2) The Commission or other City agencies are unable to transmit an emergency text message to at least twenty-five (25) percent of the DIMs installed by a TPEP Provider within four (4) hours of the TPEP Provider receiving the message via the web portal or the application programming interface; or
- (3) During any month, more than eight (8) percent of PIMs in TPEPs installed by a TPEP Provider prevent a Passenger from making payment by credit/debit/prepaid card, E-Hail App that provides for E-Payment, or Digital Wallet Application (as applicable) , viewing (or hearing) TLC Content, taking a Passenger survey, or tracking the trip on the Passenger route map.
- (4) *Critical Performance Failure Plan.* The TPEP Provider must implement a Critical Performance Failure response plan that, at a minimum, requires the TPEP Provider to respond immediately to a Critical Performance Failure. The plan must:
  - (i) Contain specific Critical Performance Failure response procedures, business recovery and continuity procedures, data backup processes, roles and responsibilities, and communication and contact strategies;

- (ii) Be tested at least annually;
- (iii) Designate specific personnel to be available on a 24/7 basis to respond to Critical Performance Failures;
- (iv) Provide appropriate training to staff with Critical Performance Failure response responsibilities;
- (v) Contain a process to modify and evolve the Critical Performance Failure response plan according to lessons learned and to incorporate industry developments;
- (vi) Require notification to the Commission of Critical Performance Failures within two (2) hours of occurrence; and
- (vii) Provide a post-incident analysis and report to the Commission.

§17. Paragraph (4) of subdivision (l) of section 75-25 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (4) The TPEP must check the Taxicab Driver's License before allowing the Taxicab Driver to log into the Taximeter via the DIM. If the Taxicab Driver's License is already logged in to another TPEP supplied by that TPEP Provider [(whether or not that TPEP is provided by the same or a different TPEP Provider)], the TPEP must not allow the Taxicab Driver to log into the Taximeter via the DIM.

§18. Paragraph (1) of subdivision (p) of section 75-25 of Title 35 of the Rules of the City of New York is amended to read as follows:

(p) *Firmware Updates.* TPEP Providers must provide a mechanism for automatically distributing and installing firmware updates to their TPEP systems, and must provide written notification to the Commission of planned firmware updates at least 24 hours in advance.

- (1) Firmware updates and security patches must be regression tested against the existing TPEP functionality to ensure no disruption in service, as required in [Commission security standards to be promulgated at a later time] Chapter 76 of these Rules;