

## **New York City Taxi and Limousine Commission**

### **Notice of Promulgation of Rules**

Notice is hereby given in accordance with section 1043(b) of the New York City Charter (“Charter”), that the Taxi and Limousine Commission (“TLC”) promulgates amendments to its adjudications rules regarding the conduct of summary suspension hearing for licensees. The promulgated rules specify the timeframe for reviewing summary suspensions based upon pending criminal charges and the relevant factors for determining whether such a suspension should continue.

This rule is promulgated pursuant to sections 1043 and 2303 of the Charter and section 19-503 of the Administrative Code of the City of New York.

This rule was published on March 31, 2021, for public comment in the City Record. On May 4, 2021, a public hearing was held virtually via Webex by the TLC at its offices at 33 Beaver Street, 19<sup>th</sup> Floor, New York, New York, 10004 and the rule was adopted by the Commission at a public meeting held on May 4, 2021. Pursuant to section 1043(e)(1)(c) of the Charter, this rule will take effect 30 days following publication in the City Record.

### **Statement of Basis and Purpose**

TLC rules permit the Chairperson to summarily suspend a Driver’s License upon notice of the Driver’s criminal arrest or citation if the Chairperson believes that the charges, if true, would demonstrate that continued licensure while awaiting a decision on the criminal charges would constitute a direct and substantial threat to public health or safety. TLC summarily suspends the license of a Driver who is charged with a felony or serious misdemeanor. This practice will not change under the promulgated rule.

TLC rules provide that a driver whose license is summarily suspended may request a hearing before an administrative law judge (“ALJ”) of the New York City Office of Administrative Trials and Hearings (“OATH”). Following the hearing, the ALJ makes a recommendation to the TLC Chairperson regarding continued suspension based on whether the Driver’s continued licensure pending resolution of the criminal charges presents a public safety risk. The Chairperson reviews the recommendation and makes a final decision regarding the Driver’s license suspension. The promulgated rule provides for a quicker return of a license for those Drivers whose licensure during the pendency of the criminal proceeding is not deemed to be a direct and substantial threat to public health or safety. The timeframe for an OATH ALJ to issue a recommendation following the hearing is reduced from fifteen days to ten days, and the time for the TLC Chair to issue a final decision is reduced from seven days to five days. In accordance with *Nnebe v. Daus* (U.S. District Court, SDNY, No. 06-cv-4991(RJS), December 31, 2020), the timeframes are being compressed to ensure a speedier resolution of the hearing process, while still permitting sufficient time for careful adjudication.

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 (6) and (8) of subdivision (d) of section 68-15 of Title 35 of the Rules of the City of New York are amended to read as follows:

(d) Summary Suspension for Criminal Charges.

- (6) The Recommended Decision shall be rendered within [15] ten (10) business days from the close of the record of the Summary Suspension hearing. If the Recommended Decision is not rendered within this deadline, the suspension will immediately be lifted until the Chair’s decision is rendered.

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- (8) (a) Except as further specified in subparagraph (b) of this paragraph, the Chairperson must render a decision on continued suspension within twenty (20) calendar days of the date of the Recommended Decision, but only after promptly providing the Respondent a copy of the Recommended Decision and an opportunity to respond to the Recommended Decision within ten (10) calendar days. If the Chairperson does not render a decision within the 20-day period, the suspension must be lifted until such action is taken by the Chairperson.
- (b) Within [seven (7)] five (5) business days of receiving a Recommended Decision recommending that the suspension be lifted, the Chairperson must: (i) accept the recommendation and lift the suspension, or (ii) provide the Respondent notice that the Recommended Decision may be rejected or modified, and the reasons therefor, and ten (10) calendar days to respond in writing to such notice. The Chair must render a decision within five business days of receiving a response from the Respondent to such notice. If the Chair fails to meet these deadlines, the suspension will immediately be lifted until the Chair’s decision is rendered.