

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 adjudications rules regarding the conduct of summary suspension hearings for licensees. TLC recently promulgated rule changes concerning the conduct of summary suspension hearings. The proposed rules further shorten the timeframe for reviewing summary suspensions based upon pending criminal charges in accordance with a recent federal court decision, *Nnebe v. Daus*.

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 May 4, 2021. The public hearing will be held online using Zoom. There will be no in person public hearing. To view the public hearing, please access the live-stream video feed at www.nyc.gov/tlc. This public hearing will be live-streamed in Arabic, Bengali, Chinese Mandarin, Spanish, and Russian via a Zoom link to be posted on the TLC’s website.

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

- **Website.** You can submit comments to the Taxi and Limousine Commission through the NYC rules website at www.nyc.gov/nycrules.
- **Email.** You can email comments to tlcrules@tlc.nyc.gov.
- **Mail.** You can mail comments to the Taxi and Limousine Commission, Office of Legal Affairs, 33 Beaver Street – 22nd Floor, New York, NY 10004.
- **Fax.** You can fax comments to the TLC at 212-676-1102.
- **By speaking at the hearing.** To sign up to speak and provide testimony, you must e-mail the TLC at tlcrules@tlc.nyc.gov or call 212-676-1135 by 5:00 p.m. on April 30, 2021. Speakers will not be able to sign up to testify the day of the hearing. Those who did not sign-up in advance to testify are welcome to view the live-stream of the meeting on TLC’s website.

Is there a deadline to submit comments? Yes, you must submit comments by April 30, 2021.

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 April 30, 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 www.nyc.gov/nycrules. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule 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 the need for 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 laws 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

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 proposed 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 proposed 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.

* * *

- (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.

**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 Summary License Suspension Rules

REFERENCE NUMBER: TLC-118

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

March 19, 2021
Date

**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 Summary License Suspension Rules

REFERENCE NUMBER: 2021 RG 012

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: March 18, 2021