

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF EMERGENCY RULEMAKING

The District of Columbia Taxicab Commission (Commission), pursuant to the authority set forth in Sections 8(b)(1) (C), (D), (E), (F), (G), (I) and (J), 14, 20, and 20a of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1) (C), (D), (E), (F), (G), (I) and (J) (2009 Repl.)); D.C. Official Code § 50-313 (2009 Repl. & 2012 Supp.); D.C. Official Code § 50-319 (2009 Repl.); and D.C. Official Code § 50-320 (2012 Supp.); D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Supp.); and Section 12 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1920, and for other purposes, approved July 11, 1919 (41 Stat. 104; D.C. Official Code § 50-371 (2009 Repl.)); hereby gives notice of its adoption on an emergency basis of amendments to Chapters 4 (Taxicab Payment Service Providers) and 6 (Taxicab Parts and Equipment) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

The rules provide necessary updates to the regulatory framework to implement the modern taximeter system (MTS), preventing legal incongruities that will halt the implementation of the MTS, and providing the residents and visitors the consumer and safety improvements intended by the D.C. Council. The rules establish a framework to encourage full compliance of the taxicab industry with the deadlines contained in the final rules. Evidence has demonstrated to the Commission that taxicab companies and independent owners are substantially complying with the requirement to obtain fully functional MTSs by the September 1st, 2013 deadline, but have requested further time to comply based on exigent circumstances. As a result, the Commission determined that there is an immediate need to preserve the welfare of these companies and owners and adopts these emergency rules to provide a short extension for taxicab companies and independent owners with contractual relationships with an approved payment service provider (PSP), who will apply on behalf of their clients for an extended installation deadline.

This rulemaking was adopted on July 31, 2013, shall take effect on Friday, August 9, and remain in effect for one hundred twenty (120) days after the date of adoption (expiring November 27, 2013), unless earlier superseded by an amendment or repeal by the Commission, or the publication of final rulemaking, whichever occurs first.

Chapter 4, TAXICAB PAYMENT SERVICES PROVIDERS, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, is amended as follows:

Section 401, GENERAL REQUIREMENTS, is amended by adding a new Subsection 401.7 to read as follows:

401.7 Extension of time to comply with the MTS implementation requirements of Chapter 6.

- (a) Each PSP approved by the Office as of August 5, 2013 may file, pursuant to this subsection and § 603.2(f), an application for extension of

compliance with the MTS requirements of Chapter 6 on behalf of a customer (a taxicab company or independent owner) that, as of August 15, 2013, has an executed contract for the installation of one or more fully-functional MTS units not later than September 30, 2013. A PSP shall not charge a customer a fee in connection with the extension.

- (b) To be eligible to apply for an extension on behalf of a customer, a PSP shall:
 - (1) Have approval from the Office pursuant to § 405 not later than August 5, 2013;
 - (2) Have a fully executed contract by the date of the application for the installation of one or more fully operational MTS units not later than September 30, 2013 (“eligible contracts”);
 - (3) Agree in writing with the customer that:
 - (A) The PSP is eligible to apply for an extension under the provisions of this subsection;
 - (B) The PSP shall apply for an extension on behalf of such customer by not later than August 15, 2013;
 - (C) If the PSP fails to apply for an extension, misses the deadline, or if the application is denied by the Office due an action or omission of the PSP, the customer may cancel the contract without penalty, regardless of the pendency of any appeal of the decision by the PSP; and
 - (D) The PSP shall install a fully-operational MTS unit in each vehicle that is the subject of an application not later than September 30, 2013.
 - (4) File its extension application not later than August 15, 2013.
- (c) If granted by the Office, an extension shall allow each PSP customer identified in the application to comply with the MTS implementation requirements of Chapter 6 not later than September 30, 2013.
- (d) No taxicab company or independent owner shall be granted an extension of time to comply with the MTS implementation requirements through application by the PSP except as provided in this subsection and § 603.2(f).

- (e) Each PSP interested in obtaining an extension on behalf of its customers shall file an application with the Office, notarized and executed under penalty of perjury, that includes the following:
 - (1) The PSP's name and business telephone number;
 - (2) The following information regarding each customer:
 - (A) The customer's name;
 - (B) The date on which each eligible contract was executed;
 - (C) The VIN of each vehicle that is the subject of an eligible contract;
 - (D) The date (not later than September 30, 2013), by which installation is expected to occur for each vehicle;
 - (3) A statement by the PSP certifying that it meets the eligibility requirements of § 401.7 (b).
- (f) No filing fee shall be charged by the Office in connection with an application.
- (g) False information.
 - (1) By the PSP. If the application contains or is submitted with materially false information provided orally or in writing by the PSP to the Office for the purpose of inducing approval, the Office may:
 - (A) Deny the entire application;
 - (B) Suspend or revoke the PSP's operating authority; or
 - (C) Enforce the MTS implementation requirements as of the implementation date against all customers listed in the application to the same extent as if the application had not been filed.
 - (2) By the owner. If the application contains or is submitted with materially false information provided orally or in writing by a taxicab company or independent owner to the PSP or to the Office for the purpose of inducing approval, the Office may:

- (A) Deny the application with respect to all vehicles for which the extension is sought by such owner;
 - (B) Suspend or revoke the company's operating authority or the independent owner's DCTC operator's license (face card); or
 - (C) Enforce the MTS implementation requirements as of the implementation date against such owner to the same extent as if the application had not been filed.
- (h) The Office shall determine whether to grant or deny the application within five (5) days after it is filed, provided however, that such period may be extended by the Office for no more than two (2) days with notice to the DDS. An application shall be granted where it reasonably appears to the Office that the PSP meets the requirements for an extension, including that all MTS installations will be made by not later than September 30, 2013.
- (i) If the Office grants the application, it shall provide notice to the PSP in writing.
- (j) By not later than September 30, 2013, the PSP shall install a fully operational MTS unit in each vehicle that is the subject of the extension.
- (k) Within five (5) days following the Office's grant of an application, the PSP shall provide a printed letter to each customer for each vehicle listed in its application. Each letter shall:
- (1) Be received by the customer no later than August 29, 2013;
 - (2) Be signed by the owner of the PSP or other person with suitable authority;
 - (3) Be notarized before a notary public who imprints his or her official seal onto the document; and
 - (4) Contain the following language prominently displayed, *viz.*:

This vehicle -- [VIN] -- has been granted an exemption from the D.C. Taxicab Commission MTS equipment requirements through and including September 30, 2013, based on an application filed by [name of PSP] on [date] and granted by the D.C. Office of Taxicabs on [date].

This letter shall be maintained in the vehicle at all times, where it shall be presented upon demand to any enforcement inspector (hack inspector) or other law enforcement official.

DO NOT DUPLICATE, ALTER, OR MISUSE THIS LETTER.

Duplication, alteration, or misuse of this letter may result in civil penalties, including impoundment of the vehicle, a civil fine, and/or the suspension or revocation of an operator's DCTC operator license (Face card), of a taxicab company's operating authority, or of a PSP's operating authority.

- (l) If the Office denies an application, it shall state the reasons for its decision in writing. A decision to deny may be appealed to the Chief of the Office within five (5) days, and, otherwise, shall constitute a final decision of the Office. The Chief shall issue a decision within two (2) days. A decision of the Chief to affirm or reverse a denial shall constitute a final decision of the Office. Only a PSP shall have standing to challenge the denial of its application.
- (m) If a PSP agrees in writing with its customer that it shall apply for an extension on behalf of such customer, and such PSP either fails to apply or has its application denied by the Office, the customer may cancel the contract without penalty, regardless of the pendency of any appeal by the PSP.

Chapter 6, TAXICAB PARTS AND EQUIPMENT, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, is amended as follows:

Section 603, MODERN TAXIMETER SYSTEMS, is amended as follows:

A new paragraph (f) is added to Subsection 603.2 to read as follows:

- (f) Extension of time to comply with MTS implementation requirements.
 - (1) Notwithstanding any other provision of this chapter, a taxicab company or independent owner may obtain an extension to comply with the MTS implementation requirements, through and including September 30, 2013, through an application filed by a PSP pursuant to the requirements of this subsection and § 401.7.
 - (2) Taxicab companies and independent owners are not eligible to apply for extensions of the September 1, 2013 implementation date). Only a PSP may apply for such an extension. A company or independent owner that has executed or attempted to execute a contract with a PSP that declines to file an application for extension will not be excused from compliance and should make alternative arrangements. Companies and independent owners in such circumstances are advised to confer with legal counsel before making such alternative arrangements.
 - (3) To be eligible for an extension under this subsection, an owner (taxicab company or independent owner) shall:
 - (A) Execute a contract with a PSP requiring such PSP to install one or more fully operational MTS units in such owner's vehicle(s) not later than September 30, 2013;
 - (B) Cooperate with the PSP to allow the PSP to file the application for extension pursuant to this subsection and § 401.7, including execute the contract sufficiently in advance of the August 15, 2013 application deadline, by a date set by the PSP (not by the Office); and
 - (C) Agree in writing with the PSP that:
 - (i) The PSP is eligible to apply for an extension under the provisions of § 405 and this subsection;
 - (ii) The PSP shall apply for an extension on behalf of such customer by not later than August 15, 2013;
 - (iii) If the PSP fails to apply for an extension, misses the deadline, or if the application is denied by the Office due an action or omission of the PSP, the customer may cancel the contract without penalty, regardless of the pendency of any appeal of the decision by the PSP.

- (4) If the application contains or is submitted with materially false information provided orally or in writing by a taxicab company or independent owner to the PSP or to the Office for the purpose of inducing approval, the Office may:
 - (A) Deny the application with respect to all vehicles for which the extension is sought by the owner;
 - (B) Suspend or revoke the company's operating authority or the independent owner's DCTC operator's license (face card); or
 - (C) Enforce the MTS implementation requirements as of the implementation date against such owner to the same extent as if the application had not been filed.
- (5) Within five (5) days following the Office's grant of the PSP's application, the PSP shall provide an original, notarized letter complying with § § 401.7(i) for each vehicle that is the subject of the extension. The letter shall be maintained in the vehicle to which it pertains, where it shall be presented upon demand to any enforcement inspector (hack inspector) or other law enforcement official prior to September 1, 2013. Failure to maintain the letter in the vehicle shall subject the owner to enforcement of the MTS requirements to the same extent as if the extension had not been granted, including all fines and penalties established §§ 612 and 825.
- (6) If the Office grants the PSP's application, the owner shall:
 - (A) Meet all of its obligations in the contract with the PSP, including the agreed-upon installation date and time; and
 - (B) Comply with all MTS requirements as of the date of installation or by September 30, 2013, whichever is earlier.
- (7) If the Office denies the PSP's application in its entirety, the owner shall be subject to enforcement of the MTS requirements to the same extent as if the application had not been filed, including all fines and penalties established §§ 612 and 825 of this title. Only a PSP shall have standing to challenge the denial of an extension application.
- (8) If a taxicab company or independent owner has agreed in writing with the PSP that the PSP is required to apply for an extension on behalf of such customer, and such PSP either fails to apply or has

its application denied by the Office, the customer may cancel the contract without penalty, regardless of the pendency of any appeal by the PSP.