

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF FINAL RULEMAKING

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(c)(1), (2), (3), (4), (5), (7), (10), (12), (13), (17), (18), (19); 14, 20, 20a and 20f of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c)(1), (2), (3), (4), (5), (7), (10), (12), (13), (17), (18), (19), 50-313, 50-319, 50-320 and 50-325 (2012 Repl. & 2013 Supp.)) hereby gives notice of its intent to adopt as final Chapter 18 (Wheelchair Accessible Paratransit Taxicab Service), Chapter 4 (Payment Service Providers), Chapter 6 (Taxicab Equipment) 8 (Operation of Taxicabs) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

The final rules would implement the Coordinated Alternative to Paratransit Services – DC Pilot Program (CAPS-DC) between the D.C. Government and the Washington Metropolitan Area Transit Authority (WMATA), pursuant to a memorandum of understanding between WMATA and the District, executed on June 23, 2014. CAPS-DC would provide a cost-effective alternative to MetroAccess paratransit services for MetroAccess dialysis patients residing in the District who consent to participate in the new program. CAPS-DC would provide patients with rides to and from WMATA-identified dialysis centers, using vehicles associated with taxicab companies that have been approved to participate in CAPS-DC under these new rules. The proposed rules govern the provision of CAPS-DC services by approved taxicab companies, and include rules for: (1) taxicab company eligibility and application for approval; (2) driver training; (3) the prioritization of service requests for wheelchair accessible vehicles; (4) the provision of service by operators to ensure patients receive transportation when needed; (5) the establishment of CAPS-DC fares and payment methods; (6) taxicab company accounting and reporting requirements; and (7) the purchase of a new wheelchair accessible vehicles by each approved taxicab company each time the company completes 3,000 CAPS-DC trips. By requiring CAPS-DC program participants to purchase wheelchair accessible vehicles for use by both CAPS-DC and regular passengers, the rules will immediately increase the number of wheelchair accessible public vehicles-for-hire in the District.

The Commission voted to adopt these rules on June 11, 2014, and published in the *D.C. Register* on July 4, 2014 at 61 DCR 6840. The Commission received comments on the proposed rulemaking, which were carefully reviewed and considered, but which did not require the Commission to make any substantial changes. No substantial changes have been made. The changes made correct grammar, clarify initial intent, clarify proposed procedures, or lessen the burdens established by the proposed rules. The Commission voted to adopt these rules as final on August 6, 2014, and they will become effective upon publication in the *D.C. Register*.

The Commission adds Chapter 18, WHEELCHAIR ACCESSIBLE PARATRANSIT TAXICAB SERVICE, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR to read as follows:

**CHAPTER 18 WHEELCHAIR ACCESSIBLE PARATRANSIT TAXICAB
SERVICE**

1800 APPLICATION AND SCOPE

- 1800.1 This chapter establishes licensing and other requirements applicable to taxicab companies (“companies”), operators, and vehicles, that are approved under this chapter to provide paratransit taxicab service, including wheelchair accessible service, as a participant in the Coordinated Alternative to Paratransit Services – DC Pilot Program (CAPS-DC) to ensure the safety of passengers and operators, to protect consumers, and for other lawful purposes within the authority of the Commission.
- 1800.2 The provisions of this chapter shall be interpreted to comply with the language and intent of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Act”).
- 1800.3 In the event of a conflict between a provision of this chapter and a provision of another chapter of this title, the more restrictive provision shall control.

1801 GENERAL PROVISIONS

- 1801.1 No person shall participate in a CAPS-DC trip unless the company, operator and vehicle have been approved to participate in CAPS-DC under this chapter, and the company, operator, and vehicle are in compliance with all applicable provisions of this title and other applicable laws.
- 1801.2 Nothing in this chapter shall be construed as soliciting or creating a contractual relationship, agency relationship, or employer-employee relationship between the District of Columbia and any other person.

1802 TAXICAB COMPANIES – ELIGIBILITY

- 1802.1 Any taxicab company which has current operating authority under Chapter 5 of this title, is in good standing with the Office, and is interested in participating in CAPS-DC, may apply to the Office to be approved as a participant in the CAPS-DC program.
- 1802.2 Each taxicab company interested in participating in CAPS-DC (“applicant”) shall be in compliance with the requirements of this section at the time of its application under § 1803.
- 1802.3 Each applicant shall be in compliance with all applicable provisions of this title in addition to those set forth in this chapter.

- 1802.4 Each applicant shall possess all necessary endorsements on its Department of Consumer and Regulatory Affairs (“DCRA”) basic business license for provision of CAPS-DC, if any.
- 1802.5 Each applicant shall possess insurance under Chapter 9 which extends to its participation in CAPS-DC, including the participation of its associated operators and vehicles.
- 1802.6 Each applicant shall be in compliance with, or ready and able to comply with, all operating requirements in § 1806.

1803 TAXICAB COMPANIES – APPLICATION

- 1803.1 Each applicant shall provide the following information and documentation to the Office of Taxicabs (“Office”):
- (a) The name of the applicant;
 - (b) The trade name(s) and logo used by the company, if any;
 - (c) Information and documentation showing that the business is in compliance with, or ready and able to comply with, all the eligibility requirements of § 1802 and all the operating requirements in § 1806;
 - (d) Information and documentation showing that the business seeks and would be eligible to receive a grant from the Office for the purpose of acquiring and placing into service one or more wheelchair accessible paratransit vans transferred from the Washington Metropolitan Area Transit Authority (“WMATA vans”), pursuant to § 1806.3; and
 - (e) Such other information and documentation as the Office deems necessary to determine that the applicant meets the requirements for approval under this title and other applicable laws.
- 1803.2 Each application filed with the Office under this section shall be:
- (a) Full and complete;
 - (b) Accompanied by full and complete documentation;
 - (c) Notarized and provided under penalty of perjury;
 - (d) Submitted no later than the deadline stated in any applicable administrative issuance, instruction, or guidance issued by the Office; and
 - (e) Accompanied by an application fee of five hundred dollars (\$500).

1804 TAXICAB COMPANIES – REVIEW OF APPLICATION

- 1804.1 The Office shall review each application pursuant to the Clean Hands Act (D.C. Law 11-118, D.C. Code § 47-2861, *et seq.*) and shall deny the application of any applicant not in compliance with the Clean Hands Act.
- 1804.2 An application may be denied if the applicant does not cooperate with the Office during the application process, if the application is not complete, or if the applicant provides materially false information for the purpose of inducing the Office to grant the application.
- 1804.3 If the Office denies an application:
 - (a) The Office shall state the reasons for its decision in writing; and
 - (b) The applicant may appeal the decision to the Chief of the Office within fifteen (15) calendar days, and, otherwise, the decision shall constitute a final decision of the Office. The Chief shall issue a decision on an appeal within thirty (30) calendar days. A timely appeal of a denial shall extend any existing approval pending the Chief's decision. A decision of the Chief to affirm or reverse a denial shall constitute a final decision of the Office. A decision of the Chief to remand to the Office for further review of an application shall extend any existing approval pending the final decision of the Office.
- 1804.4 Each CAPS-DC approval shall be effective for twelve (12) months, provided however, that the approval shall not be effective during any time when the company's operating authority under Chapter 5 has been suspended, revoked, or not renewed.
- 1804.5 The Office shall provide to the applicant a physical certificate reflecting the Office's approval of the applicant to participate in CAPS-DC, , and to receive a grant for the acquisition of WMATA vansThe certificate shall be the property of the Office, and shall be returned to the Office at the expiration of the approval period or otherwise as provided in this title.
- 1804.6 The Office shall maintain on the Commission's website the name and contact information of each taxicab company approved to participate in CAPS-DC.

1805 TAXICAB COMPANIES – RENEWAL

- 1805.1 Each company shall apply to renew its CAPS-DC approval not later than sixty (60) days prior to the expiration date of its existing approval.

- 1805.2 Each company that fails to apply for renewal of its approval prior to the twenty ninth (29th) day prior to the expiration date of its existing approval may be required to surrender its certificate of CAPS-DC approval at the end of the approval period, and apply for a new approval.
- 1805.3 Each company which applies to renew its CAPS-DC approval shall, at the time it files its renewal application, be in full compliance with this title and other applicable laws.
- 1805.4 Unless the Office provides otherwise in writing, all requirements for a new approval shall apply to a renewal approval.
- 1805.5 A CAPS-DC approval shall continue in force and effect beyond its expiration period, during such time as an application for renewal of such approval is pending, provided such application was timely filed and the application is complete.

1806 TAXICAB COMPANIES AND OPERATORS – OPERATING REQUIREMENTS

- 1806.1 Each company that has been approved by the Office to participate in CAPS-DC shall have current operating authority under Chapter 5 of this title, be in good standing with the Office, including no pending enforcement actions, and be in compliance with all other applicable provisions of this title and other applicable laws.
- 1806.2 Each approved company shall maintain appropriate business records of its compliance with the provisions of this chapter and participation in CAPS-DC, shall retain such records according to industry best practices for not less than five (5) years.
- 1806.3 Each approved company shall acquire one or more WMATA vans consistent with the approval under § 1804 or other written directive from the Office; all applicable District, WMATA, and Federal laws and regulations, and with any applicable issuances, instructions, or guidance issued by the Office. Notwithstanding any applicable administrative issuance, instruction, or guidance previously issued by the Office, each WMATA van (but no other vehicles) shall be eligible to receive a new “H-tag” pursuant to all applicable rules and regulations of DMV.
- 1806.4 The Office shall make a grant to each approved company for the acquisition of one or more WMATA vans pursuant to § 1806.3, not to exceed four thousand eight hundred dollars (\$4,800) for each WMATA. Each grant shall be made pursuant to all applicable laws, regulations, and guidelines. The company shall dispose of each WMATA van in the manner required by law and by the conditions of the grant. Failure to comply with the requirements of this

subsection may result in the suspension or revocation of a company's CAPS-DC approval, and the company may be required to refund to the Office any grant provided to the company for the acquisition of WMATA vans.

1806.5 Companies participating in CAPS-DC shall comply with the following provisions concerning the replacement of vehicles:

- (a) Each company shall replace one of its existing vehicles each time the company completes three thousand (3,000) CAPS-DC trips.
- (b) Each company shall replace an existing vehicle with a new wheelchair accessible vehicle which has a side or rear entry and a ramp which meets ADA requirements, and has one of the following sources of propulsion:
 - (1) Compressed natural gas (CNG);
 - (2) Gasoline-electric hybrid;
 - (3) Diesel or bio-diesel;
 - (4) Liquid propane; or
 - (5) Ethanol (E85).
- (c) A company that fails to comply with the requirements of paragraph (a) or (b) shall be subject to suspension or revocation of its CAPS-DC approval, and may be required to refund to the Office any grant provided to the company for the acquisition of WMATA vans.

1806.6 Prior to providing wheelchair service, each taxicab operator shall:

- (a) Have completed wheelchair service training approved by the Office, including either:
 - (1) Current training offered by an approved company pursuant to § 1806.7 which teaches a curriculum developed by the Office, including interfacing with persons with disabilities, operating mobility equipment, passenger assistance techniques, and operating wheelchair accessible vehicles;
 - (2) Prior training offered in connection with rollDC; or
 - (3) A combination of subparagraphs (1) and (2) as determined by the Office to be sufficient to meet the needs of CAPS-DC;

- (b) Pass a written examination, administered by the Office, establishing the operator's competency to provide wheelchair service consistent with the Office's curriculum; and
- (c) Be issued an Accessible Vehicle Identification ("AVID") operator's license by the Office.

1806.7 Each company shall offer wheelchair service training to its associated operators to allow them to obtain AVID licenses consistent with the provisions of § 1806.6, and shall provide reasonable incentives to operators to obtain such training.

1806.8 Each company shall maintain with the Office a current and accurate inventory of all active operators and vehicles approved for and providing CAPS-DC service, updated in such manner and at such times as determined by the Office, with the following information:

- (a) For each operator: name, cellular telephone number, DCTC operator's license number, and an indication of whether the operator has completed the wheelchair service training pursuant to § 1806.6, and, if so, the date of completion; and
- (b) For each vehicle: year, make, model, color, PVIN, tag number, and an indication of whether the vehicle is wheelchair accessible.

1806.9 Each company shall ensure that:

- (a) Each operator:
 - (1) Possesses a current and valid DCTC operator's license; and
 - (2) If the operator is operating a wheelchair accessible vehicle, the operator has a wheelchair service certification, as required by § 1806.6, and has been issued an AVID operator's license.
- (b) Each vehicle:
 - (1) Is in compliance with all applicable provisions of this title, including: vehicle licensing requirements; uniform color scheme requirements in Chapter 5; and equipment requirements in Chapter 6 (including the requirements for a modern taximeter system (MTS) unit and a uniform dome light);
 - (2) If it is a wheelchair accessible vehicle, is operated only by an operator trained to provide wheelchair service, as required by this chapter;

- (3) If it is a wheelchair accessible vehicle, other than a WMATA van, or a wheelchair accessible vehicle that was associated with the company prior to its approval to participate in CAPS-DC, meets all applicable provisions of this chapter for use in CAPS-DC; and
- (4) Has an MTS unit which complies with § 603, which has been configured to report CAPS-DC trip data in the format directed by the Office, allowing the Office to identify CAPS-DC trips.

1806.10 The rates and charges, and acceptable forms of payment, for each CAPS-DC trip shall be in accordance with the following requirements:

- (a) The fare for a CAPS-DC trip shall be the flat rate of thirty three dollars (\$33), plus any gratuity which a passenger chooses to add to the total fare, payable as follows:
 - (1) Twenty eight dollars (\$28) shall be paid with the CAPS-DC debit card; and
 - (2) Five dollars (\$5.00) of the CAPS-DC fare shall be paid by any means allowed by Chapter 8 other than the CAPS-DC debit card, including a different payment card or cash;
- (b) Each CAPS-DC passenger shall be charged a flat rate fare of five dollars (\$5) per CAPS-DC trip, with the remaining fare of twenty eight dollars (\$28) to be paid by the CAPS-DC debit card.
- (c) No passenger surcharge shall be collected from a passenger for a CAPS-DC trip.

1806.11 Each company shall make CAPS-DC service available through a telephone dispatch service to any CAPS-DC participant who requests service. Each company may also make CAPS-DC service available through a single digital dispatch service. All dispatch services shall be provided in accordance with the provisions of Chapter 16.

1806.12 Each company shall accept each booking for a CAPS-DC trip anywhere within the District which is made at least one (1) hour prior to service.

1806.13 Each company shall provide service using its WMATA vans in the following descending order of priority to the extent permitted by all applicable laws:

- (a) A CAPS-DC passenger, for which the fare shall be consistent with § 1806.10;

- (b) Any passenger requesting a wheelchair accessible vehicle, for which the fare shall be consistent with the provisions of Chapter 8; and
- (c) Any other passenger, for which the fare shall be consistent with the provisions of Chapter 8.

1806.14 Each company shall ensure that wheelchair service is available at all times when CAPS-DC service or booking is required to be available under this chapter.

1806.15 Each CAPS-DC trip shall be between a WMATA-approved dialysis center in the District and another location in the District, or vice-versa.

1806.16 Each company shall require each operator to verify that the photograph and information on the passenger's MetroAccess Card matches the information on the CAPS-DC debit card prior to the start of a CAPS-DC trip.

1806.17 Each company shall provide invoices and reports of its CAPS-DC trips and its compliance with this chapter at such times and in such forms as directed in an applicable issuance, instruction, or guidance issued by the Office.

1806.18 Where a vehicle dispatched to pick up a CAPS-DC passenger is unable to render service for any reason, including the passenger's inability to pay or equipment (vehicle or MTS unit) malfunction, the following provisions shall apply:

- (a) The operator shall immediately notify the passenger and the company of the circumstances;
- (b) If the passenger is unable to pay, the operator shall provide service and the company shall promptly notify the Office and make appropriate arrangements for payment; and
- (c) If there has been an equipment malfunction, the company shall immediately dispatch another vehicle to that location. The passenger may choose to wait inside the first vehicle until the second vehicle arrives, at no charge to the passenger. The operator shall comply with the requirements in Chapter 6 concerning equipment malfunctions.

An operator who fails to comply with part (a), (b), or (c) of this subsection shall be subject to a civil fine of two hundred fifty dollars (\$250). A company which fails to comply with part (b) or (c) shall be subject to a civil fine of five hundred dollars (\$500).

1807 PROHIBITIONS

- 1807.1 No company or operator shall charge a CAPS-DC passenger a rate higher than the rates established by this chapter, or require payment in a form not authorized by this chapter.
- 1807.2 No company or operator shall participate in providing CAPS-DC wheelchair service unless the operator has an AVID license.
- 1807.3 No company or operator shall fail to provide CAPS-DC service at such time and in such manner as required by this chapter.
- 1807.4 No operator shall violate an applicable provision of this chapter.
- 1807.5 No company shall violate an applicable provision of this chapter.

1808 PENALTIES

- 1808.1 Each violation of this chapter by a company or operator shall subject the company or operator to a civil fine and/or other penalty as established by a provision of this chapter, provided however, that any pattern of non-compliance with the provisions of this chapter by a company shall also subject the company to the suspension, revocation, and/or non-renewal of its CAPS-DC approval.
- 1808.2 Except where otherwise specified in this chapter, the following civil fines are established for violations of this chapter, which shall double for the second violation of the same provision, and triple for each violation of the same provision thereafter:
- (a) A civil fine of five hundred dollars (\$500) dollars where no civil fine is enumerated for a violation by a company; and
 - (b) A civil fine of two hundred fifty dollars (\$250) dollars where no civil fine is enumerated for a violation by an operator.
- 1808.3 The enforcement of any provision of this chapter shall be governed by the applicable procedures of Chapter 7.

1899 DEFINITIONS

- 1899.1 The following words and phrases shall have the meanings ascribed:

“ADA” – the Americans with Disabilities Act as defined in this chapter.

“Americans with Disabilities Act” – the Americans with Disabilities Act of 1990, 104 Stat. 328; 42 U.S.C. § 12101 *et seq.*

- “Accessible Vehicle Identification” or “AVID”** – an operator’s license that allows its bearer to operate a wheelchair accessible vehicle and any other type or class of public vehicle-for-hire.
- “CAPS-DC”** - “Coordinated Alternative to Paratransit Services” as defined in this chapter.
- “CAPS-DC debit card”** – a payment card issued by the District to MetroAccess participants who have consented to participate in CAPS-DC.
- “CAPS-DC MOU”** – a memorandum of understanding between WMATA and the District, executed on June 23, 2014, and any amendments, modifications, or novations thereof, providing general terms, conditions, and requirements for WMATA’s and the District’s participation in the CAPS-DC Pilot Program.
- “CAPS-DC trip”** – a one-way trip to or from a participating CAPS-DC dialysis center.
- “CNG vehicle”** - an automobile powered exclusively by compressed natural gas.
- “Coordinated Alternative to Paratransit Services”** – a pilot program to provide paratransit service, including wheelchair accessible service, to dialysis patients.
- “MetroAccess Card”** – an identification card issued by WMATA to passengers who participate in its MetroAccess program.
- “Office”** - the Office of Taxicabs established pursuant to section 13 of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-301 *et seq.* (2013 Repl.)).
- “rollDC”** - the Metropolitan Washington Council of Government’s Wheelchair Accessible Taxicab program.
- “Washington Metropolitan Area Transit Authority”**– the regional transportation agency created by interstate compact to serve the Washington Metropolitan Area.
- “Wheelchair accessible vehicle”** - a vehicle compliant with the Americans with Disabilities Act and its implementing regulations, including 49 C.F.R. Part 38.1-38.39, which accommodates a passenger using a wheelchair or other personal mobility device who needs a ramp or lift to enter or exit the vehicle.
- “Wheelchair service”** – service provided by a wheelchair accessible vehicle.
- “WMATA”** - “Washington Metropolitan Area Transit Authority” as defined in this chapter.

CHAPTER 8, OPERATION OF TAXICABS, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, is amended as follows:

A new subsection 801.12 is added to read as follows:

801.12 Notwithstanding any provision of this chapter, taxicab companies and operators approved to participate in the Coordinated Alternative to Paratransit Service (CAPS-DC), while providing CAPS-DC service pursuant to Chapter 18, shall charge the rates, charges, and fares set forth in Chapter 18.