

## DEPARTMENT OF FOR-HIRE VEHICLES

### **NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Acting Director of the Department of For-Hire Vehicles (“Department” or “DFHV”), pursuant to the authority set forth in Sections 8(c) (2) and (19), and 14 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 §§ 50-301.07(c) (2) and (19), and 50-301.13 (2014 Repl. & 2015 Supp.)) hereby gives notice of the adoption, on an emergency basis, amendments to Chapter 6 (Taxicab Parts and Equipment) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This emergency and proposed rulemaking amends Chapter 6 to abolish the vehicle extension program in § 609.7. The vehicle extension program was started in June 2012, as part of broader changes to § 609 intended to reduce the age of the fleet. *See* Notice of Final Rulemaking published on June 1, 2012 at 59 DCR 006317. Responding to concerns from a number of owners who wanted to keep their vehicles in service beyond the new deadlines for retirement, however, vehicle extensions (previously called “waivers”) were created to allow owners to exceed the deadline provided their vehicles remained safe and met other requirements connected with modernization. Safety has always been the number one issue for these vehicles, however, as they are oldest in the District; failure to keep them properly maintained increases risks of injury to drivers, passengers, and the general public.

On October 29, 2015, the Department issued Administrative Issuance: Extended Vehicles, AI-2015-004 (replaced by AI-2016-004, effective effect June 11, 2016). The administrative issuance (“AI”) clarified the procedures for seeking extensions and for ensuring that vehicles approved to participate in the program are safely maintained until their extensions expire. To ensure safety, the AI requires that all requirements to ensure the Department is kept aware of the condition of approved vehicles; owners may choose either to provide an electronic vehicle condition report (“EVCR”) or to have a vehicle condition monitoring device (“VCMD”) installed in the vehicle. Both methods report mileage and major indicators of mechanic condition.

Unfortunately, the Department’s experience with the vehicle extension program has not been a positive one. To date, 249 vehicles have been approved for the program; the owners of all these vehicles chose to have VCMDs installed. Only 139 VCMDs have actually been installed, however, and, of the 110 VCMDs installed, 32 vehicles have since been replaced, and the other 78 have continued to provide service without *any* safety monitoring whatsoever, in violation of the program requirements to which their owners agreed as a condition of their participation. In addition, of the vehicles in which VCMDs were installed, 38 have reported mechanical problems that have not been corrected.

The Department finds that the level of non-compliance in the vehicle extension program is unacceptable. It directly and needlessly increases risks of harm to drivers, passengers, and the general public. The Department devotes significant resources to the program – to review applications, to conduct vehicle inspections, and to monitor reporting, among other things – which could be dedicated to other purposes in the agency. For all these reasons, among others that support this action, the Department concludes that the vehicle extension program should be

abolished as set forth in this notice.

Pursuant to Section 6(c) of the D.C. Administrative Procedure Act, D.C. Official Code § 2-505(c) (2012 Repl.), the Department finds that this rulemaking must be enacted on an emergency basis because there is an immediate need to preserve and promote the health, safety, and welfare of District residents, in order to minimize risks of harm to persons and property from taxicab vehicles operating in an unsafe condition, beyond the general time and/or mileage limits in § 609 of the Title 31 of the D.C. Municipal Regulations. This emergency and proposed rulemaking was adopted by the Department on November 4, 2016, and the emergency rulemaking took effect immediately. The emergency rulemaking will remain in effect for one hundred and twenty (120) days after the date of adoption (expiring March 4, 2017) unless earlier superseded by an amendment or repeal by the Department or the publication of final rulemaking, whichever occurs first.

The Acting Director also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register*. Directions for submitting comments may be found at the end of this notice.

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

**Section 609, TAXICAB VEHICLE RETIREMENT, is amended as follows:  
Subsection 609.7 is amended to read as follows:**

609.7 The owner of a vehicle in service which is subject to retirement pursuant to §§ 609.3-609.5 may file an application with the Department requesting an extension of the retirement deadline, for a period not to exceed one (1) year. Each application for a vehicle extension shall be subject to the following requirements:

- (a) No applications shall be accepted after November 4, 2016, provided however, that an application shall be accepted if filed on or before December 1, 2016 where the applicant demonstrates the expenditure of non-nominal costs in good faith reliance on the rules in effect through November 3, 2016;
- (b) At the time of application, the vehicle shall:
  - (1) Have passed its two (2) most recent required DMV inspections;
  - (2) Not be a salvaged vehicle;
  - (3) Be in excellent mechanical condition, as determined by the Department, or by an independent third party inspection service approved by the Department;
  - (4) Be in excellent condition in appearance, including having no body damage on its exterior; and
  - (5) Not have been driven more than three hundred thousand (300,000)

miles at the time the application is filed;

- (d) The vehicle and its owner shall be in compliance with all applicable provisions of this title, including without limitation the insurance requirements of Chapter 9 and the equipment requirements of Chapter 8;
- (e) The application for extension shall be filed by the owner on a form established by the Department, executed under oath, together with a filing fee of fifty dollars (\$50) and accompanied by the information and documentation required by this section;
- (f) If the application is granted, the vehicle shall be painted in the uniform color scheme in accordance with the requirements of § 503, and,
- (g) If the application is approved, the vehicle extension shall end by the earliest of the following dates and events:
  - (1) One (1) year after the application is approved;
  - (2) When the vehicle accrues an additional thirty three thousand (33,000) miles from the mileage on the date of application;
  - (3) December 31, 2017; or
  - (4) When the vehicle or the owner fails to meet a requirement of paragraph (b) of this subsection or an applicable administrative issuance; and
- (h) Where the Department learns that a vehicle approved for an extension under this subsection is operating without the safety monitoring required by an administrative issuance, or is operating in a condition that threatens the safety of any individual, it may require the taximeter of such vehicle to be shut off until the owner reports to the Department and makes suitable arrangements to abate the condition and come into full compliance. The Department shall provide reasonable notice of the action to the owner at the time the meter is shut off. The shut off of a taximeter under this paragraph shall not constitute an enforcement action under this title.

Copies of this proposed rulemaking can be obtained at [www.dcregs.dc.gov](http://www.dcregs.dc.gov) or by contacting the Department of For-Hire Vehicles, Office of Regulatory Policy and Planning, 2235 Shannon Place, S.E., Suite 3001, Washington, D.C. 20020. All persons desiring to file comments on the proposed rulemaking action should submit written comments via e-mail to [dfhv@dc.gov](mailto:dfhv@dc.gov) or by mail to the Department of For-Hire Vehicles, Office of Regulatory Policy and Planning, 2235 Shannon Place, S.E., Suite 3001, Washington, DC 20020, no later than thirty (30) days after the publication of this notice in the *D.C. Register*.