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PUBLIC SERVICE COMMISSION

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December 31, 2020

Mr. Andrew S. Johnston  
Executive Secretary  
Public Service Commission of Maryland  
6 St. Paul St., 16th Floor  
Baltimore, Maryland 21202-6806

RE: Petition for Rulemaking

Dear Mr. Johnston:

Enclosed for filing is a Petition to Establish a Rulemaking to Revise Regulations Governing Vehicle Inspection Standards. Staff is requesting this rulemaking to address the issue of taxis and other passenger-for-hire vehicles operating while subject to vehicle safety recalls.

Pursuant to the Commission's March 16, 2020 Notice of Waiver and Relaxed Filing Requirements, Staff will not provide paper copies of this filing. However, electronic copies will be sent to the Maryland Office of People's Counsel, and the Transportation Division's stakeholder list.

If you have any questions regarding this matter, please feel free to contact me at 410-767-8005.

Sincerely,

A handwritten signature in blue ink that reads "Lloyd J. Spivak".

Lloyd J. Spivak  
Deputy Staff Counsel

cc: Maryland OPC; Transportation Stakeholders

**BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF MARYLAND**

PETITION TO ESTABLISH A RULEMAKING  
TO REVISE REGULATIONS GOVERNING  
VEHICLE INSPECTION STANDARDS

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RM No. \_\_\_\_\_

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The Staff of the Public Service Commission of Maryland (“Staff”) hereby respectfully requests that the Public Service Commission (“Commission” or “PSC”) initiate a rulemaking for proposed revisions to the Code of Maryland Regulations (“COMAR”) 20.90 and 20.95 associated with vehicle inspection standards on all vehicles currently permitted by the Commission, in addition to vehicles added in the future.

**I. History and Background**

The National Traffic and Motor Vehicle Safety Act (originally enacted in 1966 and codified as 49 U.S.C. Chapter 301) gives the U.S. Department of Transportation’s National Highway Traffic Safety Administration (NHTSA) the authority to issue vehicle safety standards and to require manufacturers to recall vehicles that have safety-related defects or do not meet Federal safety standards. Manufacturers voluntarily initiate many of these recalls, while others are either influenced by NHTSA investigations or ordered by NHTSA via the courts. If a safety defect is discovered, the manufacturer must notify NHTSA, as well as vehicle or equipment owners, dealers, and distributors. The manufacturer is then required to remedy the problem at no charge to the owner. NHTSA is responsible for monitoring the manufacturer’s corrective action to ensure successful completion of the recall campaign.

Federal Motor Vehicle Safety Standards set minimum performance requirements for

those parts of the vehicle that most affect its safe operation (brakes, tires, lighting) or that protect drivers and passengers from death or serious injury in the event of a crash (air bags, safety belts, child restraints, energy absorbing steering columns, motorcycle helmets). These Federal Standards are applicable to all vehicles and vehicle-related equipment manufactured or imported for sale in the United States (including U.S. territories) and certified for use on public roads and highways.

The United States Code for Motor Vehicle Safety (Title 49, Chapter 301) defines motor vehicle safety as “the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.”<sup>1</sup> A defect includes “any defect in performance, construction, a component, or material of a motor vehicle or motor vehicle equipment.”<sup>2</sup> Generally, a safety defect is defined as a problem that exists in a motor vehicle or item of motor vehicle equipment that:

- poses a risk to motor vehicle safety, and
- may exist in a group of vehicles of the same design or manufacture, or items of equipment of the same type and manufacture.<sup>3</sup>

The issue of taxis and other passenger-for-hire vehicles operating while subject to safety recalls has recently been brought to the Commission’s attention by public interest and news organizations. Staff has done some research on the issue. Among major American cities, only

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<sup>1</sup> 49 USC § 30102(a)(9).

<sup>2</sup> 49 USC § 30102(a)(3).

<sup>3</sup> U.S. Dept. of Transportation, National Highway Traffic Safety Administration, “What Every Vehicle Owner Should Know,” pp. 2-3, [https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/14218-mvsdefectsandrecalls\\_041619-v2-tag.pdf#:~:text=Generally%2C%20a%20safety%20defect%20is%20defined%20as%20a,equipment%20of%20the%20same%20type%20and%20manufacture%20](https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/14218-mvsdefectsandrecalls_041619-v2-tag.pdf#:~:text=Generally%2C%20a%20safety%20defect%20is%20defined%20as%20a,equipment%20of%20the%20same%20type%20and%20manufacture%20).

San Francisco currently has screening standards in place for safety recalls on taxicabs. Transportation Division staff reached out to the San Francisco regulators and found that San Francisco implemented a program in 2018 that prohibited any taxicab from operating with an open safety recall.

According to the Maryland Department of Transportation about 53 million vehicles in the U.S. are subject to potentially life-threatening safety recalls, including more than 450,000 in Maryland. To bring awareness to this important issue and improve safety throughout the state, Governor Larry Hogan proclaimed March 2-6, 2020, Vehicle Safety Recalls Week. The Public Utilities Article and Title 20 of the Code of Maryland Regulations (COMAR) require all vehicles transporting passengers in Maryland to be maintained in proper physical and mechanical condition in order to provide safe, adequate and convenient service. The inspection program for vehicles regulated by the Commission has been, and continues to be, one of the most important regulatory tools that the Commission has implemented to ensure that carriers operate safe vehicles. While the inspection program is as much a preventative maintenance system for the carrier as it is an enforcement system, the Commission's inspection program works. However, vehicle safety recalls have never been incorporated in any Commission inspection requirements, nor are they currently included in the Maryland State inspection program.

Staff believes that the Commission's regulations should address the issue of open vehicle safety recalls. Although a prohibition on the operation of vehicles under open safety recalls as taxis or passenger-for-hire vehicles may be warranted, other options that can effectively address the issue may be available. Staff has not included proposed regulations with this filing, as we would like to seek stakeholder input prior to drafting regulations. Such input would prove useful in determining the most effective way of minimizing the risk of having taxis and passenger-for-hire vehicles operating while subject to vehicle safety recalls, while also minimizing disruption

to the transportation industry in Maryland.

## **II. Conclusion**

Staff respectfully requests that the Commission establish a rulemaking for the purpose of revising COMAR 20.90 and 20.95, and direct Staff to begin the revision process by consulting industry stakeholders prior to drafting and filing draft regulations.

Respectfully submitted,



Lloyd J. Spivak  
Deputy Staff Counsel  
Maryland Public Service Commission  
6 St. Paul Street, 16<sup>th</sup> Floor  
Baltimore MD, 21202