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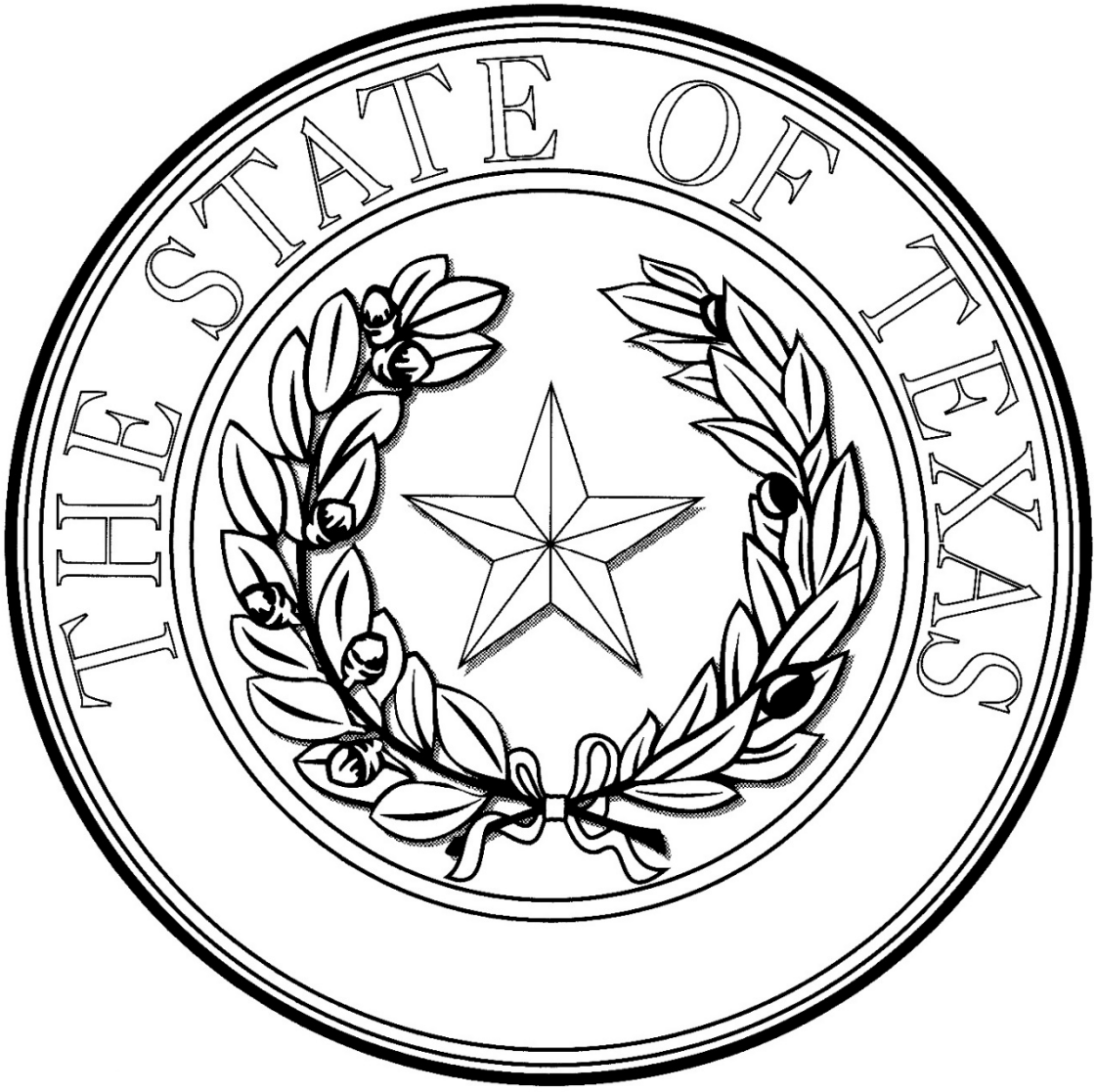

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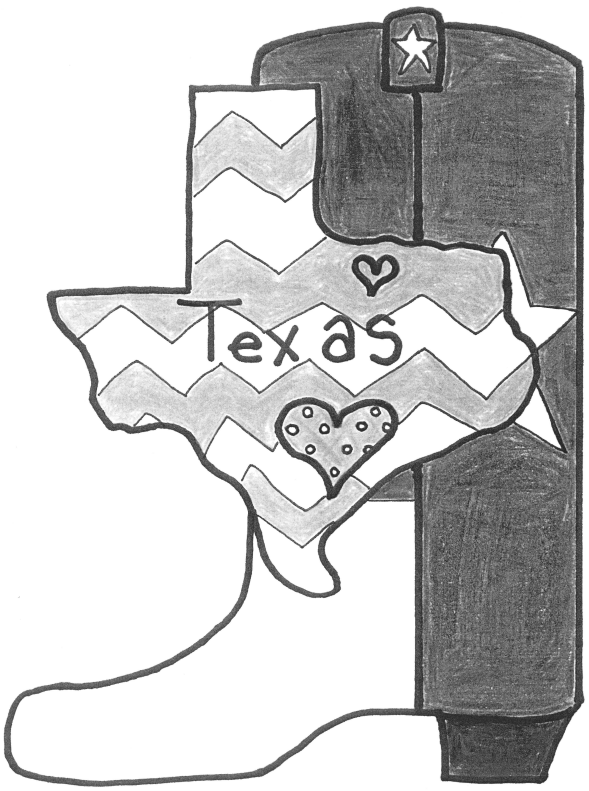
Texas

THE GOVERNOR

As required by Government Code, §2002.011(4), the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1828.

Appointments

Appointments for June 28, 2024

Appointed to the Teacher Retirement System of Texas Board of Trustees for a term to expire August 31, 2029, John R. Rutherford of Houston, Texas (replacing Jarvis V. Hollingsworth of Missouri City, whose term expired).

Designating Robert H. "Rob" Walls, Jr. of San Antonio as presiding officer of the Teacher Retirement System of Texas Board of Trustees for a term to expire at the pleasure of the Governor. Mr. Walls is replacing Jarvis V. Hollingsworth of Missouri City as presiding officer.

Appointments for July 1, 2024

Appointed as Justice of the Fourth Court of Appeals, Place 3, for a term until December 31, 2024, or until her successor shall be duly elected and qualified, Lori Massey Brissette of San Antonio, Texas (replacing Justice Patricia O. Alvarez of Helots, who resigned).

Appointed to the Texas Industrialized Building Code Council for a term to expire February 1, 2026, Suzanne R. Arnold of Rowlett, Texas (Ms. Arnold is being reappointed).

Appointed to the Texas Industrialized Building Code Council for a term to expire February 1, 2026, Edwin O. "Scooter" Lofton, Jr. of Horseshoe Bay, Texas (Mr. Lofton is being reappointed).

Appointed to the Texas Industrialized Building Code Council for a term to expire February 1, 2026, Alfonso A. "Alex" Morales of Houston, Texas (Mr. Morales is being reappointed).

Appointed to the Texas Industrialized Building Code Council for a term to expire February 1, 2026, Jorge A. Olivares of Galveston, Texas (replacing Janet M. Hoffman of Galveston, whose term expired).

Appointed to the Texas Industrialized Building Code Council for a term to expire February 1, 2026, John D. "Johnny" Scholl, III of Claude, Texas (Mr. Scholl is being reappointed).

Appointed to the Texas Industrialized Building Code Council for a term to expire February 1, 2026, William F. "Dubb" Smith, III of Dripping Springs, Texas (Mr. Smith is being reappointed).

Greg Abbott, Governor

TRD-202402907

♦ ♦ ♦

Proclamation 41-4123

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, issued a disaster proclamation on July 8, 2022, as amended and renewed in a number of subsequent proclamations, certifying that exceptional drought conditions posed a threat of imminent disaster in several counties; and

WHEREAS, the Texas Division of Emergency Management has confirmed that those same drought conditions continue to exist in these and other counties in Texas, with the exception of Bexar County;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby amend and renew the aforementioned proclamation and declare a disaster in Bandera, Bee, Blanco, Burnet, Calhoun, Cameron, Colorado, Comal, Comanche, Culberson, Edwards, El Paso, Hays, Hidalgo, Hudspeth, Irion, Jeff Davis, Kendall, Kerr, Kinney, Lavaca, Llano, Lubbock, Matagorda, Maverick, Medina, Presidio, Real, Terrell, Tom Green, Travis, Uvalde, Val Verde, Victoria, Wharton, Willacy, Williamson, Wilson, and Zavala Counties.

Pursuant to Section 418.017 of the Texas Government Code, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster.

Pursuant to Section 418.016 of the Texas Government Code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to protect life or property threatened by this declared disaster, I hereby authorize the suspension of such statutes and rules for the duration of this declared disaster.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 28th day of June, 2024.

Greg Abbott, Governor

TRD-202402908

♦ ♦ ♦

Proclamation 41-4124

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, issued a disaster proclamation on Tuesday, April 30, 2024, as amended on Thursday, May 2, 2024, Tuesday, May 7, 2024, Wednesday, May 15, 2024, Monday, May 20, 2024, Sunday, May 26, 2024, Thursday, May 30, 2024, Wednesday, June 5, 2024, and Thursday, June 13, 2024, certifying that the severe storms and flooding that began on April 26, 2024, and included heavy rainfall, flash flooding, river flooding, large hail, and hazardous wind gusts caused widespread and severe property damage, injury, or loss of life in Anderson, Angelina, Austin, Bailey, Bandera, Bastrop, Baylor, Bell, Bexar, Blanco, Bosque, Bowie, Brazos, Brown, Burleson, Burnet, Caldwell, Calhoun, Cass, Chambers, Cherokee, Clay, Coleman, Collin, Colorado, Comal,

Concho, Cooke, Coryell, Dallas, Delta, Denton, DeWitt, Dickens, Eastland, Ellis, Falls, Fannin, Fayette, Freestone, Galveston, Gillespie, Gonzales, Gregg, Grimes, Guadalupe, Hamilton, Hardin, Harris, Haskell, Hays, Henderson, Hill, Hockley, Hood, Hopkins, Houston, Hunt, Jasper, Jefferson, Johnson, Jones, Karnes, Kaufman, Kendall, Kerr, Kimble, Knox, Lamar, Lampasas, Lavaca, Lee, Leon, Liberty, Limestone, Llano, Lynn, Madison, Mason, McCulloch, McLennan, Medina, Menard, Midland, Milam, Mills, Montague, Montgomery, Nacogdoches, Navarro, Newton, Orange, Panola, Polk, Red River, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Saba, Shelby, Smith, Somervell, Sutton, Tarrant, Terrell, Titus, Travis, Trinity, Tyler, Van Zandt, Walker, Waller, Washington, Wichita, Williamson, and Wilson Counties;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby amend the aforementioned proclamation and declare a disaster in the additional counties of Cochran, Coke, Morris, Rains, Sterling, and Wharton.

Pursuant to Section 418.017 of the Texas Government Code, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster.

Pursuant to Section 418.016 of the Texas Government Code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to protect life or property threatened by this declared disaster, I hereby authorize the suspension of such statutes and rules for the duration of this declared disaster.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 28th day of June, 2024.

Greg Abbott, Governor

TRD-202402910

♦ ♦ ♦

Proclamation 41-4125

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on May 31, 2021, certifying under Section 418.014 of the Texas Government Code that the surge of individuals unlawfully crossing the Texas-Mexico border posed an ongoing and imminent threat of disaster for a number of Texas counties and for all state agencies affected by this disaster; and

WHEREAS, I amended the aforementioned proclamation in a number of subsequent proclamations, including to modify the list of affected counties and therefore declare a state of disaster for those counties and for all state agencies affected by this disaster; and

WHEREAS, the certified conditions continue to exist and pose an ongoing and imminent threat of disaster as set forth in the prior proclamations;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby renew the aforementioned proclamation and declare a disaster for Aransas, Atascosa, Bee, Brewster, Brooks, Caldwell, Cameron, Chambers, Coleman, Colorado, Crane, Crockett, Culberson, DeWitt, Dimmit, Duval, Edwards, El Paso, Frio, Galveston, Goliad, Gonzales, Hidalgo, Hudspeth, Jackson, Jeff Davis, Jim Hogg, Jim Wells, Kenedy, Kerr, Kimble, Kinney, Kleberg, La Salle, Lavaca, Live Oak, Mason, Maverick, McCulloch, McMullen, Medina, Menard, Midland, Pecos, Presidio, Real, Refugio, San Patricio, Schleicher, Shackelford, Sutton, Terrell, Throckmorton, Uvalde, Val Verde, Victoria, Webb, Wharton, Wilbarger, Wilson, Zapata, and Zavala Counties and for all state agencies affected by this disaster. All orders, directions, suspensions, and authorizations provided in the Proclamation of May 31, 2021, as amended and renewed in subsequent proclamations, are in full force and effect.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 28th day of June, 2024.

Greg Abbott, Governor

TRD-202402911

♦ ♦ ♦

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. [~~Square brackets and strikethrough~~] indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

TITLE 7. BANKING AND SECURITIES

PART 7. STATE SECURITIES BOARD

CHAPTER 111. SECURITIES EXEMPT FROM REGISTRATION

7 TAC §111.2

The Texas State Securities Board proposes an amendment to §111.2, concerning Listed and Designated Securities. The references to sections of the Texas Securities Act (Act) would be updated to refer to the correct sections in the codified version of the Act in the Texas Government Code. The codification was adopted by HB 4171, 86th Legislature, 2019 Regular Session, and became effective January 1, 2022 (HB 4171).

The section would also be amended to replace the reference to the term "Securities and Exchange Commission" with the term "SEC" in subsection (d). SEC is already a defined term in §107.2, concerning Definitions. The nonsubstantive amendments are being made pursuant to the Agency's periodic review of its rules.

Clint Edgar, Deputy Securities Commissioner; and Emily Diaz and Shaun Yarroll, Assistant Directors, Registration Division, have determined that for the first five-year period the proposed amendment is in effect there will be no foreseeable fiscal implications for state or local government as a result of enforcing or administering the proposed amendment.

Mr. Edgar, Ms. Diaz, and Mr. Yarroll have also determined that for each year of the first five years the proposed amendment is in effect the public benefit expected as a result of adoption of the proposed amendment will be (1) improved readability and clarity by updating references; and (2) statutory compliance by ensuring the rules are current and accurate and that they conform to the codified version of the Act which would promote transparency and efficient regulation. There will be no adverse economic effect on micro or small businesses or rural communities. Since the proposed amendment will have no adverse economic effect on micro or small businesses or rural communities, preparation of an economic impact statement and a regulatory flexibility analysis is not required. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed. There is no anticipated impact on local employment.

Mr. Edgar, Ms. Diaz, and Mr. Yarroll have also determined that for the first five-year period the proposed amendment is in effect: it does not create or eliminate a government program; it does not require the creation or elimination of existing employee positions; it does not require an increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to this agency; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or negatively affect the state's economy. Additionally, the proposed amendment does not create a new regulation, or expand, limit, or repeal an existing regulation.

Comments on the proposal must be in writing and will be accepted for 30 days following publication of the proposed section in the *Texas Register.* Written comments should be submitted to Cheryn Netz, General Counsel, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167. Comments may also be submitted electronically to proposal@ssb.texas.gov. In order to be considered by the Board at adoption, comments must be received no later than 30 days following publication.

The amendment is proposed under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The proposal affects the following sections of the Texas Securities Act: Texas Government Code Chapter 4003, Subchapters A, B, and C, and Chapter 4005.

§111.2. Listed and Designated Securities.

(a) Fully listed. As used in the Texas Securities Act, §4005.054 [~~§6.F~~], "fully listed" includes any security listed or approved for listing upon notice of issuance on an exchange specified in the Act, §4005.054 [~~§6.F~~], or on an exchange listed in subsection (b) of this section.

(b) Approved exchanges. The Securities Commissioner has approved the following exchanges, by written order, as satisfying the requirements of the Texas Securities Act, Chapter 4005, Subchapter C [~~§6.F~~], for eligibility:

(1) - (2) (No change.)

(c) Warrants for listed securities. In addition to sales made under the Texas Securities Act, §4005.054 [~~§6.F~~], the Board, pursuant to the Act, §4005.024 [~~§5.T~~], exempts from the registration requirements of the Act, Chapter 4003, Subchapters A, B, and C [~~§7~~], the offer and sale by the issuer itself, or by a registered dealer, of warrants to purchase securities of the issuer which at the time of sale of the warrants are exempt pursuant to the Act, §4005.054 [~~§6.F~~].

(d) Recognized and responsible stock exchange. In order to implement the general purposes of the Texas Securities Act declared in §4001.002(a)(2) [~~§10-1.A~~] to maximize coordination with federal and other states law and administration, particularly with respect to exemptions, the Board hereby defines the term "recognized and responsible stock exchange," as used in the Act, §4005.054(a)(1)(E) [~~§6.F~~], not to include any organization which is not registered with the SEC [~~United~~

States Securities and Exchange Commission] as a national securities exchange pursuant to the Securities Exchange Act of 1934, §6.

(e) Who may sell. Securities described in the Act, §4005.054 [§6.F], may be sold by or through a registered securities dealer acting either as a principal or agent.

(f) National market system of the NASDAQ stock market. The "national market system of the NASDAQ stock market," as used in the Act, §4005.054(a)(2) [§6.F], includes NASDAQ Global Select Market, NASDAQ Global Market, and NASDAQ Capital Market.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 28, 2024.

TRD-202402889
Travis J. Iles
Securities Commissioner
State Securities Board
Earliest possible date of adoption: August 11, 2024
For further information, please call: (512) 305-8303

♦ ♦ ♦

CHAPTER 113. REGISTRATION OF SECURITIES

7 TAC §113.14

The Texas State Securities Board proposes an amendment to §113.14, concerning Statements of Policy. The amendment would adopt by reference certain updated North American Securities Administrators Association ("NASAA") statements of policy ("SOPs") that were amended by NASAA on September 12, 2023.

Clint Edgar, Deputy Commissioner; and Emily Diaz and Shaun Yarroll, Assistant Directors, Registration Division; have determined that for the first five-year period the rule is in effect there will be no foreseeable fiscal implications for the state or local government as a result of enforcing or administering the proposed amendment.

Mr. Edgar, Ms. Diaz, and Mr. Yarroll also have determined that for each year of the first five years the rule is in effect the public benefit expected as a result of adoption of the proposed amendment will be to increase uniformity with other states when reviewing applications to register securities. There will be no adverse economic effect on micro or small businesses or rural communities. Since the rule will have no adverse economic effect on micro or small businesses or rural communities, preparation of an economic impact statement and a regulatory flexibility analysis is not required. There is no anticipated economic cost to persons who are required to comply with the rule as proposed. There is no anticipated impact on local employment.

Mr. Edgar, Ms. Diaz, and Mr. Yarroll have determined that for the first five-year period the rule is in effect: it does not create or eliminate a government program; it does not require the creation or elimination of existing employee positions; it does not require an increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to this agency; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or negatively affect the state's economy. The rule as proposed does not create a new regulation, and it does not expand, limit, or repeal an existing regulation.

Comments on the proposal must be in writing and will be accepted for 30 days following publication of the proposed section in the *Texas Register.* Comments should be sent to Cheryn Netz, General Counsel, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167. Comments may also be submitted electronically to proposal@ssb.texas.gov. In order to be considered by the Board at adoption, comments must be received no later than 30 days following publication.

The amendment is proposed under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The proposal affects the following sections of the Texas Securities Act: Texas Government Code Chapter 4003, Subchapters A, B, and C.

§113.14. Statements of Policy.

(a) (No change.)

(b) In order to promote uniform regulation, the following NASAA Statements of Policy shall apply to the registration of securities:

(1) (No change.)

(2) Impoundment of Proceeds, as amended by NASAA on September 12, 2023 [March 31, 2008];

(3) (No change.)

(4) Options and Warrants, as amended by NASAA on September 12, 2023 [March 31, 2008];

(5) - (6) (No change.)

(7) Promotional Shares, as amended by NASAA on September 12, 2023 [March 31, 2008];

(8) - (11) (No change.)

(12) Debt Securities, as amended by NASAA on September 12, 2023 [April 25, 1993];

(13) - (21) (No change.)

(c) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 28, 2024.

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Travis J. Iles
Securities Commissioner
State Securities Board
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For further information, please call: (512) 305-8303

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CHAPTER 114. FEDERAL COVERED SECURITIES

7 TAC §114.4

The Texas State Securities Board proposes an amendment to §114.4, concerning Filings and Fees. Section 114.4(b) would be amended to add a new paragraph (6) to specifically address federal covered securities offered pursuant to Securities and Exchange Commission (SEC) Federal Crowdfunding. Currently these offerings fall within the catch-all for federal covered securities provided by subsection (a). To assist issuers in more readily locating the filing and fee requirements for SEC Federal crowdfunding offerings, a specific provision covering these offerings would be provided in new subsection (b)(6). No change would be made to the filing or fee requirements of this rule, other than to permit a filer to use the Uniform Notice Filing of Federal Crowdfunding form instead of page 1, Items 1-6 of the Form U-1. The Federal Crowdfunding form includes a consent to service of process. The nonsubstantive amendment is being made pursuant to the Agency's periodic review of its rules.

Clint Edgar, Deputy Securities Commissioner; and Emily Diaz and Shaun Yarroll, Assistant Directors, Registration Division, have determined that for the first five-year period the proposed amendment is in effect there will be no foreseeable fiscal implications for state or local government as a result of enforcing or administering the proposed amendment.

Mr. Edgar, Ms. Diaz, and Mr. Yarroll have also determined that for each year of the first five years the proposed amendment is in effect the public benefit expected as a result of adoption of the proposed amendment will be to provide more efficiency for Federal Crowdfunding filings by setting forth a specific filing requirement for Federal Crowdfunding filings and by permitting Federal Crowdfunding filers to use a different form for these filings. There will be no adverse economic effect on micro or small businesses or rural communities. Since the proposed amendment will have no adverse economic effect on micro or small businesses or rural communities, preparation of an economic impact statement and a regulatory flexibility analysis is not required. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed. There is no anticipated impact on local employment.

Mr. Edgar, Ms. Diaz, and Mr. Yarroll have also determined that for the first five-year period the proposed amendment is effect: it does not create or eliminate a government program; it does not require the creation or elimination of existing employee positions; it does not require an increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to this agency; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or negatively affect the state's economy. Additionally, the proposed amendment does not create a new regulation, or expand, limit, or repeal an existing regulation.

Comments on the proposal must be in writing and will be accepted for 30 days following publication of the proposed section in the *Texas Register.* Written comments should be submitted to Cheryn Netz, General Counsel, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167. Comments may also be submitted electronically to proposal@ssb.texas.gov. In order to be considered by the Board at adoption, comments must be received no later than 30 days following publication.

The amendment is proposed under the authority of the Texas Government Code, §§4002.151 and 4005.024, as adopted by HB 7171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Section 4005.024 provides that the Board may prescribe new exemptions by rule.

The proposal affects the following sections of the Texas Securities Act: Texas Government Code Chapter 4003, Subchapters A, B, and C; Chapter 4005, Subchapters A and B; and Chapter 4006.

§114.4. Filings and Fees.

(a) (No change.)

(b) Special circumstances.

(1) - (5) (No change.)

(6) SEC Regulation Crowdfunding. If the issuer has its principal place of business in this state, the issuer shall provide to the Securities Commissioner the items required in this paragraph when the issuer makes its initial SEC Form C filing concerning the offering with the SEC. If the issuer does not have its principal place of business in this state but residents of this state have purchased 50% or greater of the aggregate of the offering, the issuer shall provide to the Securities Commissioner the items required in this paragraph when the issuer becomes aware that such purchases have met this threshold and in no event later than thirty (30) days from the date of completion of the offering. For Federal Crowdfunding offerings, an issuer shall provide to the Securities Commissioner:

(A) a notice filing on either:

(i) Uniform Notice of Federal Crowdfunding Offering form (Form U-CF) or copies of all documents filed with the SEC; or

(ii) page 1 of a Form U-1, Uniform Application to Register Securities, with items 1-6 completed, or a document providing substantially the same information;

(B) a consent to service of process signed by the issuer, if required by §114.3 of this title (relating to Consents to Service of Process),and if the notice filing required by subparagraph (A) of this paragraph is not made on Form U-CF;

(C) the fees provided for in the Act, §4006.001(1) and §4006.055; and

(D) a written statement from the issuer of the following:

(i) the aggregate amount of securities proposed to be sold to persons located in this state; and

(ii) either:

(I) the date the issuer made its initial SEC Form C filing concerning the offering with the SEC and the issuer's principal place of business in this state; or

(II) if the issuer does not have its principal place of business in this state, the date the issuer became aware that the issuer met the threshold filing requirement in this state or the date of the completion of the offering.

(c) - (i) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Travis J. Iles
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State Securities Board
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For further information, please call: (512) 305-8303

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CHAPTER 133. FORMS

7 TAC §133.7

The Texas State Securities Board proposes the repeal of §133.7, which adopts by reference a form concerning Securities Application. Form 133.7 refers to a different form that has been repealed and no longer exists. The proposed repeal of the existing rule will allow for the simultaneous adoption of a new rule and a new corrected form by reference, which are being concurrently proposed. The proposed repeal is being made pursuant to the Agency's periodic review its rules.

Clint Edgar, Deputy Securities Commissioner; Tommy Green, Director, Inspections and Compliance Division; and Emily Diaz and Shaun Yarroll, Assistant Directors, Registration Division, have determined that for the first five-year period the proposed repeal is in effect there will be no foreseeable fiscal implications for state or local government as a result of enforcing or administering the proposed repeal.

Mr. Edgar, Mr. Green, Ms. Diaz, and Mr. Yarroll have also determined that for each year of the first five years the proposed repeal is in effect the public benefit expected as a result of adoption of the proposed repeal is that a form that is no longer needed would be eliminated. There will be no adverse economic effect on micro or small businesses or rural communities. Since the proposed repeal will have no adverse economic effect on micro or small businesses or rural communities, preparation of an economic impact statement and a regulatory flexibility analysis is not required. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed. There is no anticipated impact on local employment.

M. Edgar, Mr. Green, Ms. Diaz, and Mr. Yarroll have also determined that for the first five-year period the proposed repeal is in effect: it does not create or eliminate a government program; it does not require the creation or elimination of existing employee positions; it does not require an increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to this agency; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or negatively affect the state's economy. Additionally the proposed repeal does not create a new regulation; and it does not limit or expand an existing regulation. Although the rulemaking involves repealing an existing form, the net effect is to merely replace the form with a new form that is being concurrently proposed, while leaving the scope and the content of the current regulation that relates to this form unchanged.

Comments on the proposal must be in writing and will be accepted for 30 days following publication of the proposed section in the *Texas Register.* Written comments should be submitted to Cheryn Netz, General Counsel, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167. Comments may also be submitted electronically to proposal@ssb.texas.gov. In order to be considered by the Board at adoption, comments must be received no later than 30 days following publication.

The repeal is proposed under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The repeal affects the following sections of the Texas Securities Act: Texas Government Code Chapter 4003, Subchapters A, B, and C; and Chapter 4006, Subchapters A, B, and C.

§133.7. Securities Application.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Travis J. Iles
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7 TAC §133.7

The Texas State Securities Board proposes new §133.7, which adopts by reference a form concerning Securities Application. Current §133.7 and the form it adopts by reference, which refers to a different form that has been repealed and no longer exists, would be repealed and replaced with a new rule that would adopt a new corrected form by reference. The new rule is being made pursuant to the Agency's periodic review its rules.

Clint Edgar, Deputy Securities Commissioner; Tommy Green, Director, Inspections and Compliance Division; and Emily Diaz and Shaun Yarroll, Assistant Directors, Registration Division, have determined that for the first five-year period the proposed form is in use there will be no foreseeable fiscal implications for state or local government as a result of enforcing or administering the proposed form.

Mr. Edgar, Mr. Green, Ms. Diaz, and Mr. Yarroll have also determined that for each year of the first five years the proposed form is in use the public benefit expected as a result of adoption of the proposed form would be improved statutory compliance by ensuring the form is current and accurate which would promote transparency and efficient regulation. There will be no adverse economic effect on micro or small businesses or rural communities. Since the proposed form will have no adverse economic effect on micro or small businesses or rural communities, preparation of an economic impact statement and a regulatory flexibility analysis is not required. There is no anticipated economic cost to persons who are required to comply with the form as proposed. There is no anticipated impact on local employment.

Mr. Edgar, Mr. Green, Ms. Diaz, and Mr. Yarroll have also determined that for the first five-year period the proposed form is in use: it does not create or eliminate a government program; it does not require the creation or elimination of existing employee positions; it does not require an increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to this agency; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or negatively affect the state's economy. Additionally, the proposed form does not limit, expand, or repeal an existing regulation. Although the rulemaking involves the creation of a new form, there would be no new regulation created since the net effect is to merely replace a form that is being concurrently proposed for repeal, while leaving the scope and the content of the current regulation that relates to this form unchanged.

Comments on the proposal must be in writing and will be accepted for 30 days following publication of the proposed section in the *Texas Register.* Written comments should be submitted to Cheryn Netz, General Counsel, State Securities Board, P.O. Box 13167, Austin, Texas 78711 3167. Comments may also be submitted electronically to proposal@ssb.texas.gov. In order to be considered by the Board at adoption, comments must be received no later than 30 days following publication.

The new rule is proposed under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legislature, 2019 regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The proposal affects the following sections of the Texas Securities Act: Texas Government Code Chapter 4003, Subchapters A, B, and C; and Chapter 4006, Subchapters A, B, and C.

§133.7. Securities Application.

This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167 and at www.ssb.texas.gov.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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7 TAC §133.33

The Texas State Securities Board proposes an amendment to §133.33, concerning Uniform Forms Accepted, Required, or Recommended, to update the statutory reference to the Texas Securities Act (Act) in §133.33(a)(8) to refer to the correct section in the codified version of the Act in the Texas Government Code. The codification was adopted by HB 4171, 86th Legislature, 2019 Regular Session, and became effective January 1, 2022 (HB 4171).

The section would also be amended to add the Uniform Notice of Federal Crowdfunding (Form U-CF) form and Form U6 to the list in subsection (a) of uniform forms accepted. The Form U-CF is used for making the required notice filings for this type of federal covered securities. A related change to §114.4 has been concurrently proposed for adoption. Form U6 is used by state securities regulators, including the Agency, and by federal securities regulators, for reporting disclosure events and disciplinary actions against individuals and organizations. The proposed addition of Form U6 to the list of uniform forms accepted would acknowledge through formal rulemaking the Agency's current practice of accepting these forms as a means of notifying the Agency of such events disclosed in these forms.

The amendments to this section are being made pursuant to the Agency's periodic review of its rules.

Clint Edgar, Deputy Securities Commissioner; Tommy Green, Director, Inspections and Compliance Division; and Emily Diaz and Shaun Yarroll, Assistant Directors, Registration Division, have determined that for the first five-year period the proposed amendment is in effect there will be no foreseeable fiscal implications for state or local government as a result of enforcing or administering the proposed amendment.

Mr. Edgar, Mr. Green, Ms. Diaz, and Mr. Yarroll have also determined that for each year of the first five years the proposed amendment to this section is in effect the public benefits expected as a result of adoption of the proposed amendment will be to (1) provide for more efficiency for Federal Crowdfunding filings by permitting these filers to use a different form for these filings, and (2) statutory compliance by ensuring the rule is current, accurate, and reflects an existing practice, and that it conforms to the codified version of the Act which would promote transparency and efficient regulation. There will be no adverse economic effect on micro or small businesses or rural communities. Since the proposed amendment will have no adverse economic effect on micro or small businesses or rural communities, preparation of an economic impact statement and a regulatory flexibility analysis is not required. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed. There is no anticipated impact on local employment.

Mr. Edgar, Mr. Green, Ms. Diaz, and Mr. Yarroll have also determined that for the first five-year period the proposed amendment is in effect: it does not create or eliminate a government program; it does not require the creation or elimination of existing employee positions; it does not require an increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to this agency; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or negatively affect the state's economy. Additionally, the proposed amendment does not create a new regulation, or expand, limit, or repeal an existing regulation.

Comments on the proposal must be in writing and will be accepted for 30 days following publication of the proposed section in the *Texas Register.* Written comments should be submitted to Cheryn Netz, General Counsel, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167. Comments may also be submitted electronically to proposal@ssb.texas.gov. In order to

be considered by the Board at adoption, comments must be received no later than 30 days following publication.

The amendment is proposed under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The proposal affects the following sections of the Texas Securities Act: Texas Government Code Chapter 4005, Subchapter A; and §4007.105.

§133.33. Uniform Forms Accepted, Required, or Recommended.

(a) Assuming the appropriate exhibits and supplements are filed, the State Securities Board will accept for filing the following "Uniform Forms" in lieu of the requisite Texas form, if any.

(1) - (7) (No change.)

(8) U-7. Small Company Offerings Registration Form may be used as a disclosure guide when making a small company offering of securities pursuant to an exemption under the Act or when making small public offerings pursuant to the Act, Chapter 4003, Subchapter A [~~§7.A~~].

(9) - (12) (No change.)

(13) Uniform Notice of Federal Crowdfunding Offering (Form U-CF) form.

(14) U-6. Regulator Form U6 Filing.

(b) - (c) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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CHAPTER 139. EXEMPTIONS BY RULE OR ORDER

7 TAC §§139.1, 139.2, 139.7 - 139.16, 139.18 - 139.24, 139.26, 139.27

The Texas State Securities Board proposes amendments to 21 rules in this chapter, to make nonsubstantive changes. Specifically, the Board proposes amendments to §139.1, concerning Policies; §139.2, concerning Professional Associations; §139.7, concerning Sale of Securities to Nonresidents; §139.8, concerning Sales to Underwriters; §139.9, concerning Bank Holding Companies; §139.10, concerning Exchange Offers; §139.11, concerning Transactions in United States Savings Bonds; §139.12, concerning Oil and Gas Auction Exemption; §139.13, concerning Resales under SEC Rule 144 and Rule 145(d); §139.14, concerning Non-Issuer Sales; §139.15, concerning Credit Enhancements; §139.16, concerning Sales to Individual Accredited Investors; §139.18, concerning Dealer and Investment Adviser Use of the Internet To Disseminate Information on Products and Services; §139.19, concerning Accredited Investor Exemption; §139.20, concerning Third Party Brokerage Arrangements on Financial Entity Premises; §139.21, concerning Dealer, Agent, and Securities Exemptions for Canadian Accounts; §139.22, concerning Exemption for Investment Adviser to a High Net Worth Family Entity; §139.23, concerning Registration Exemption for Investment Advisers to Private Funds; §139.24, concerning Charitable Organizations Assisting Economically Disadvantaged Clients with Texas Qualified Tuition Program Plans; §139.26, concerning Intrastate Crowdfunding Exemption for SEC Rule 147A Offerings; and §139.27, concerning Mergers and Acquisitions Dealer Exemption. The amendments would be made pursuant to the agency's periodic review of its rules and make no substantive changes.

The references to sections of the Texas Securities Act (Act) in §§139.1, 139.8 - 139.16, 139.18 - 139.24, 139.26, and 139.27 would be updated to refer to the correct sections in the codified version of the Act in the Texas Government Code. The codification was adopted by HB 4171, 86th Legislature, 2019 Regular Session, and became effective January 1, 2022 (HB 4171). The rest of the amendments would make other nonsubstantive and cleanup changes.

Section 139.2 would be amended to capitalize "Board" and "Commissioner" for consistency. Section 139.2 would also be amended to reference the section of the Texas Business Organizations Code where the existing cite in the rule concerning professional associations has been moved.

Sections 139.10, 139.13, 139.16, 139.19, 139.23, and 139.26 would be amended to replace the references in those sections to the term "Securities and Exchange Commission" with the term "SEC." SEC is already a defined term in §107.2, concerning Definitions.

Section 139.7(b) would be amended to add the word "internet" to the means that an offer or sale can be made under this rule. In addition, the words "or her" would be added to §139.7 for consistency.

The language in subsection §139.16(e), which sets forth the content of the rule's limited use advertisement requirement, would be updated to reflect the current SEC definition of "individual accredited investor." A parenthetical in subsection (g) would be deleted to conform to the preferred format for multiple references to a rule within a rule.

Section 139.18 would also be amended to replace the outdated term "dealer agent" with "agent."

Section 139.20 contains a cross reference to §109.17 of this title (relating to Banks under the Securities Act, §5.L). This caption of this cross reference to §109.17 would be renamed, and the incorrect capitalization of "under" and "the" in the caption would be corrected. The Board has adopted an amendment to §109.17 to rename the section, and the adoption notice for that amendment was submitted to the *Texas Register* concurrently with this proposal notice.

Sections 139.23, 139.26, and 139.27 would also be amended for consistency to reformat the citations in these sections to the SEC rules and to add a missing "--" to §139.23(a)(6).

Clint Edgar, Deputy Securities Commissioner; Tommy Green, Director, Inspections and Compliance Division; and Emily Diaz

and Shaun Yarroll, Assistant Directors, Registration Division, have determined that for the first five-year period the proposed amendments are in effect there will be no foreseeable fiscal implications for state or local government as a result of enforcing or administering the proposed amendments.

Mr. Edgar, Mr. Green, Ms. Diaz, and Mr. Yarroll have also determined that for each year of the first five years the proposed amendments are in effect the public benefit expected as a result of adoption of the proposed amendments will be (1) improved readability and clarity by updating terminology and references; and (2) statutory compliance by ensuring the rules are current and accurate and that they conform to the codified version of the Act which would promote transparency and efficient regulation. There will be no adverse economic effect on micro or small businesses or rural communities. Since the proposed amendments will have no adverse economic effect on micro or small businesses or rural communities, preparation of an economic impact statement and a regulatory flexibility analysis is not required. There is no anticipated economic cost to persons who are required to comply with the amendments as proposed. There is no anticipated impact on local employment.

Mr. Edgar, Mr. Green, Ms. Diaz, and Mr. Yarroll have also determined that for the first five-year period the proposed amendments are in effect: they do not create or eliminate a government program; they do not require the creation or elimination of existing employee positions; they do not require an increase or decrease in future legislative appropriations to this agency; they do not require an increase or decrease in fees paid to this agency; they do not increase or decrease the number of individuals subject to the rules' applicability; and they do not positively or negatively affect the state's economy. Additionally, the proposed amendments do not create a new regulation, or expand, limit, or repeal an existing regulation.

Comments on the proposal must be in writing and will be accepted for 30 days following publication of the proposed sections in the *Texas Register.* Written comments should be submitted to Cheryn Netz, General Counsel, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167. Comments may also be submitted electronically to proposal@ssb.texas.gov. In order to be considered by the Board at adoption, comments must be received no later than 30 days following publication.

The amendments are proposed under the authority of the Texas Government Code, §§4002.151, 4004.001, and 4005.024, as adopted by HB 4171. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Section 4004.001 provides the Board with the authority to prescribe new dealer, agent, investment adviser, or investment adviser representative registration exemptions by rule. Section 4005.024 provides that the Board may prescribe new exemptions by rule.

The proposed amendments affect the Texas Securities Act, Texas Government Code Chapter 4003, Subchapters A, B, and C; Chapter 4004; and Chapter 4005, Subchapters A and B.

§139.1. Policies.

(a) It is the policy of the State Securities Board to refuse to grant any exemptions by order under §4005.024 [~~§5.T~~] of the Securities Act for specific individual transactions or issuers.

(b) The company or person engaged in a transaction exempt under a rule adopted pursuant to the Securities Act, §4005.024 [~~§5.T~~], shall not be deemed a dealer within the meaning of the Act unless the rule by its terms indicates otherwise.

§139.2. Professional Associations.

The sale, issuance, or offering of any securities of a professional association organized pursuant to Texas Business Organizations Code, §301.011 [~~Texas Civil Statutes, Article 1528(f)~~], to persons permitted by the provisions of such article to own such securities are hereby exempted from the securities registration and dealer registration requirements of the Act; and the sale, issuance, or offering of any such securities to such persons shall be legal without any action or approval whatsoever on the part of the Board [~~board~~] or the Commissioner [~~commissioner~~].

§139.7. Sale of Securities to Nonresidents.

(a) (No change.)

(b) An issuer or selling agent who makes an offer or sale from Texas, by any means, including use of the mail, [~~or~~] telephone, or internet, is a dealer and must comply with the dealer registration requirements of the Securities Act. (The Securities Act provides exemptions from the dealer registration requirements which might be available to some issuers or selling agents.) An offer is not deemed to be made from Texas merely because offering material is prepared in Texas, if such material is still in the possession of the issuer or its selling agent when it leaves the state. A sale is not deemed to be made in Texas merely because a purchaser sends his or her purchase money to Texas, or because clerical functions connected with the closing of a sale are performed in Texas.

§139.8. Sales to Underwriters.

Any transaction between the issuer, or other person on whose behalf the offering is made, and an underwriter, or among underwriters, is hereby exempted from the securities registration requirements of the Securities Act, Chapter 4003, Subchapters A, B, and C [~~§7~~].

§139.9. Bank Holding Companies.

A bank holding company with fewer than 500 shareholders that owns the majority of the voting shares of a bank domiciled in Texas is hereby exempted from the dealer registration requirements of the Securities Act, §4004.051 [~~§12~~], with respect to its participation in a sale or other transaction involving its own securities or the securities of a bank where the bank holding company owns a majority of the voting shares of such bank.

§139.10. Exchange Offers.

The offer or sale by the issuer of common stock in exchange for units of limited partnership or interests in oil, gas, or mineral leases, fees, or titles is hereby exempted from the securities registration requirements of the Securities Act, Chapter 4003, Subchapters A, B, and C [~~§7~~], if all of the following conditions are met:

(1) (No change.)

(2) the shares of common stock to be exchanged are registered for sale with the SEC [~~Securities and Exchange Commission~~];

(3) - (6) (No change.)

§139.11. Transactions in United States Savings Bonds.

The State Securities Board, pursuant to the Securities Act, §4004.001 and §4005.024 [~~§5.T and §12.B~~], exempts from the securities and dealer registration requirements of the Act, the sale of any United States Series EE Savings Bond if no commission or other remuneration

is paid or given or is to be paid or given, directly or indirectly, in connection with the sale. For purposes of this section, "commission or other remuneration" does not include a fee paid by the United States Treasury.

§139.12. Oil and Gas Auction Exemption.

For purposes of this rule only, the term "mineral interest" means an interest in or under an oil, gas, or mining lease, fee, or title, including real property from which the minerals have not been severed, or contracts relating thereto. The offer and sale of a mineral interest, at an auction, by the seller itself, or a registered dealer or agent acting on behalf of the seller, is exempt from the securities registration requirements of the Texas Securities Act, Chapter 4003, Subchapters A, B, and C [~~Section 7~~], if all of the following conditions are met.

(1) - (6) (No change.)

§139.13. Resales under SEC Rule 144 and Rule 145(d).

(a) Exemption from securities registration. Offers to resell and resales of any security by the owner thereof, or any person acting on behalf of the owner, shall be exempt from the securities registration requirements of the Texas Securities Act, Chapter 4003, Subchapters A, B, and C [~~§7~~], pursuant to §4005.024 [~~§5.T~~], if the offers to resell and resales of securities are made in compliance with either:

(1) Rule 144 promulgated by the SEC [~~Securities and Exchange Commission (SEC)~~] under the Securities Act of 1933, as amended (1933 Act), as made effective in SEC Release Number 33-5223, as amended in Release Numbers 33-5307, 33-5452, 33-5452A, 33-5560, 33-5613, 33-5717, 33-5979, 33-5995, 33-6032, 33-6180, 34-16589, 33-6286, 33-6389, 33-6488, 33-6768, 33-6862, 33-7285, and 33-7390; or

(2) (No change.)

(b) (No change.)

§139.14. Non-Issuer Sales.

The State Securities Board, pursuant to the Securities Act, §4005.024 [~~§5.T~~], exempts from the securities registration requirements of the Securities Act, Chapter 4003, Subchapters A, B, and C [~~§7~~], the offer and sale of any securities, provided the following conditions are met.

(1) - (3) (No change.)

(4) Number of sales.

(A) Except as the allowable number of sales may be increased as provided in subparagraph (B) of this paragraph, the owner, together with any persons acting in concert with the owner, may make no more than 15 sales in any 12-month period under and in reliance on this section, exclusive of sales made:

(i) (No change.)

(ii) in compliance with the Act, Chapter 4005, Subchapters A and B [~~§§5.O, 6.F, or 5.H~~]; or

(iii) (No change.)

(B) (No change.)

(C) The exemption provided by this section may not be combined with sales made pursuant to the Act, §4005.004 [~~§5.C(1)~~], to exceed sales otherwise allowable under this section.

(5) - (6) (No change.)

§139.15. Credit Enhancements.

(a) Any "qualified credit enhancement" need not be registered as a separate security when no additional consideration is required to receive the enhancement and the enhancement is offered and sold in conjunction with, and is not tradeable separately from, securities that are:

(1) registered pursuant to the Securities Act, Chapter 4003, Subchapters A, B, or C [~~§7~~];

(2) exempt under the Securities Act, Chapter 4005, Subchapter B [~~§6~~]; or

(3) included within a transaction exempt under the Securities Act, Chapter 4005, Subchapter A [~~§5~~].

(b) (No change.)

§139.16. Sales to Individual Accredited Investors.

(a) In general. The State Securities Board, pursuant to the Securities Act, §4005.024 [~~§5.T~~], exempts from the securities registration requirements of the Securities Act, Chapter 4003, Subchapters A, B, and C [~~§7~~], the offer and sale by the issuer or a registered dealer without advertising of any security to an individual accredited investor, or to any purchaser who the issuer has reasonable grounds to believe and after making reasonable inquiry shall believe to be an individual accredited investor, provided that such security is not part of the same distribution or offering as securities of the same issuer which have been registered or are proposed to be registered by pending application under the Securities Act, Chapter 4003 [~~§7~~]. "Advertising," as used in this subsection, does not include the use of limited use advertisements under subsection (e) of this section or the use of the type of printed material as permitted by §109.13(b) of this title (relating to Limited Offering Exemptions) in connection with an offering under §4005.012 or §4005.013 of the Act [~~, §5.I~~].

(b) (No change.)

(c) Disqualifications.

(1) No exemption under this section shall be available for the securities of any issuer if the issuer or registered dealer:

(A) within the last five years, has filed a registration statement which is the subject of a currently effective registration stop order entered by the SEC [~~United States Securities and Exchange Commission~~] or any state securities administrator;

(B) - (D) (No change.)

(2) - (3) (No change.)

(d) (No change.)

(e) Limited use advertisements. Any limited use advertisement used in connection with an offering under this section must be filed with the Securities Commissioner ten days prior to use in this state. A limited use advertisement may be disseminated by any means, direct or indirect. A limited use advertisement shall contain only the statements required or permitted to be included therein by this subsection.

(1) A limited use advertisement shall contain the following items of information:

(A) - (C) (No change.)

(D) the following statement: "The securities have not been registered with or approved by the Texas Securities Commissioner and are being offered and sold pursuant to the exemption provided by §139.16 of the Rules and Regulations of the State Securities Board. This advertisement was filed with the Texas Securities Commissioner on or about (fill in date). The securities are being offered to, and may be purchased by, only those natural persons who are accredited investors as described in Rule 501(a), promulgated by the Securities and Exchange Commission under the Securities Act of 1933 (17

CFR §230.501, as amended) [~~whose individual net worth, or joint net worth with that person's spouse, at the time of purchase of the securities, exceeds $1 million, excluding the value of the person's primary residence, or natural persons who have an individual income in excess of $200,000 in each of the two most recent years, or joint income with that person's spouse in excess of $300,000 in each of those years, and who have a reasonable expectation of reaching that same income level in the current year~~]."

(2) (No change.)

(f) (No change.)

(g) Transactions exempt under this section may be combined with offers and sales exempt under the Securities Act, §4005.011 [~~§5.H~~], and §109.4 of this title (relating to Securities Registration Exemption for Sales to Financial Institutions and Certain Institutional Investors). In this event, the statement required by subsection (e)(1)(D) of this section may be modified to indicate that the securities are also being offered to eligible purchasers under §4005.011 [~~§5.H~~] and §109.4 of this title [~~(relating to Securities Registration Exemption for Sales to Financial Institutions and Certain Institutional Investors)~~].

(h) - (k) (No change.)

§139.18. Dealer and Investment Adviser Use of the Internet To Disseminate Information on Products and Services.

(a) Dealers, investment advisers, [~~dealer~~] agents, and investment adviser representatives who use the Internet, the World Wide Web, and similar proprietary or common carrier electronic systems (collectively, the "Internet") to distribute information on available products and services through certain communications made on the Internet directed generally to anyone having access to the Internet, and transmitted through postings on Bulletin Boards, displays on "Home Pages" or similar methods ("Internet Communications") shall not be deemed to be a "dealer" in this state for purposes of the Act, §4001.056 [~~§4.D~~], based solely on that fact if the following conditions are observed:

(1) The Internet Communication contains a legend in which it is clearly stated that:

(A) the dealer, investment adviser, [~~dealer~~] agent, or investment adviser representative in question may only transact business in this state if first registered, excluded, or exempted from Texas dealer, investment adviser, [~~dealer~~] agent, or investment adviser representative registration requirements, as may be; and

(B) follow-up, individualized responses to persons in Texas by such dealer, investment adviser, [~~dealer~~] agent, or investment adviser representative that involve either the effecting or attempting to effect transactions in securities, or the rendering of personalized investment advice for compensation, as may be, will not be made absent compliance with Texas dealer, investment adviser, [~~dealer~~] agent, or investment adviser representative registration requirements, or an applicable exemption or exclusion;

(2) The Internet Communication contains a mechanism, including and without limitation, technical "firewalls" or other implemented policies and procedures, designed reasonably to ensure that prior to any subsequent, direct communication with prospective customers or clients in Texas, said dealer, investment adviser, [~~dealer~~] agent, or investment adviser representative is first registered in Texas or qualifies for an exemption or exclusion from such requirement. Nothing in this section shall be construed to relieve a Texas registered dealer, investment adviser, [~~dealer~~] agent, or investment adviser representative from any applicable securities registration requirement in Texas;

(3) (No change.)

(4) In the case of an [~~a dealer~~] agent or investment adviser representative:

(A) the affiliation with the dealer or investment adviser of the [~~dealer~~] agent or investment adviser representative is prominently disclosed within the Internet Communication;

(B) the dealer or investment adviser with whom the [~~dealer~~] agent or investment adviser representative is associated retains responsibility for reviewing and approving the content of any Internet Communication by an [~~a dealer~~] agent or investment adviser representative;

(C) the dealer or investment adviser with whom the [~~dealer~~] agent or investment adviser representative is associated first authorizes the distribution of information on the particular products and services through the Internet Communication; and

(D) in disseminating information through the Internet Communication, the [~~dealer~~] agent or investment adviser representative acts within the scope of the authority granted by the dealer or investment adviser.

(b) The position expressed in this section extends to state dealer, investment adviser, [~~dealer~~] agent, and investment adviser representative registration requirements only, and does not excuse compliance with applicable securities registration, antifraud, or related provisions.

(c) Nothing in this section shall be construed to affect the activities of any dealer, investment adviser, [~~dealer~~] agent, or investment adviser representative engaged in business in this state that is not subject to the jurisdiction of the Securities Commissioner as a result of the National Securities Markets Improvement Act of 1996, as amended.

§139.19. Accredited Investor Exemption.

Any offer or sale of a security by an issuer in a transaction that meets the requirements of this section is exempted from the securities registration requirements of the Texas Securities Act and exempted from the filing requirements contained in the Texas Securities Act, §4003.203 [~~§22.A~~], and Chapter 137 of this title (relating to Administrative Guidelines for Regulation of Offers).

(1) - (2) (No change.)

(3) Investment intent; resales. The issuer reasonably believes that all purchasers are purchasing for investment and not with the view to or for sale in connection with a distribution of the security. Any resale of a security sold in reliance on this exemption within 12 months of sale shall be presumed to be with a view to distribution and not for investment, except a resale pursuant to a registration statement effective under the Texas Securities Act, Chapter 4003 [~~§7~~], or to an accredited investor pursuant to an exemption available under the Texas Securities Act or Board rules.

(4) Disqualifications.

(A) The exemption is not available to an issuer if the issuer, any of the issuer's predecessors, any affiliated issuer, any of the issuer's directors, officers, general partners, beneficial owners of 10% or more of any class of its equity securities, any of the issuer's promoters presently connected with the issuer in any capacity, any underwriter of the securities to be offered, or any partner, director, or officer of such underwriter:

(i) within the last five years, has filed a registration statement which is the subject of a currently effective registration stop order entered by any state securities administrator or the SEC [~~United States Securities and Exchange Commission~~];

(ii) - (iv) (No change.)

(B) (No change.)

(5) General announcement.

(A) (No change.)

(B) The general announcement shall include only the following information, unless additional information is specifically permitted by the Securities Commissioner:

(i) - (v) (No change.)

(vi) a statement that:

(I) - (II) (No change.)

(III) the securities have not been registered with or approved by any state securities agency or the SEC [~~U.S. Securities and Exchange Commission~~] and are being offered and sold pursuant to an exemption from registration.

(6) - (10) (No change.)

§139.20. Third Party Brokerage Arrangements on Financial Entity Premises.

(a) The State Securities Board, pursuant to the Texas Securities Act, §4004.001 [~~§12.B~~], exempts a financial entity from the dealer registration requirements of the Texas Securities Act, when such financial entity is engaging in securities-related activity consisting solely of acting as a correspondent in a third party brokerage arrangement coordinated with a registered dealer on the premises of the financial entity. A financial entity may receive compensation for such an arrangement based on a percentage of commissions generated by the arrangement or on the basis of leased space of the premises; officers and employees of the financial entity may receive compensation as set forth in subsection (b) of this section. For purposes of this section, the following words and terms shall have the following meanings:

(1) "financial entity" shall include any state or national bank, any federal savings and loan association or savings and loan association organized and subject to the laws and regulation of this State as defined in §109.17 of this title (relating to Banks under the [~~Under The~~] Securities Act, §4005.016 [~~§5.L~~]), or any credit union, insurance company, bank holding company, or financial holding company organized and subject to functional regulation under the laws of the United States or under the laws of any State or territory of the United States;

(2) - (3) (No change.)

(b) The State Securities Board, pursuant to the Texas Securities Act, §4004.001 [~~§12.B~~], exempts officers and employees of a financial entity from the agent registration requirements of the Texas Securities Act, when such employee or officer is engaging in securities-related activity consisting solely of referring customers to a representative of the registered dealer. For the purposes of this subsection, the officers and employees of a financial entity may receive a referral fee for this activity provided that:

(1) - (3) (No change.)

(c) The filing and fee requirements for dealers and agents exempted from registration pursuant to this section are preserved.

(1) (No change.)

(2) Upon amendment to its Form 133.9, the financial entity files an amended Form 133.9 and an amendment fee as provided in the Texas Securities Act, §4006.054 [~~§35.B(1)~~].

(3) (No change.)

(d) (No change.)

§139.21. Dealer, Agent, and Securities Exemptions for Canadian Accounts.

(a) The State Securities Board, pursuant to the Texas Securities Act, §4004.001 [~~§5.T and 12.C~~], exempts Canadian dealers and agents from the registration requirements of the Texas Securities Act, when such dealers and agents comply with subsections (b) and (c) of this section and are conducting a transaction in a Canadian self-directed tax advantaged retirement plan of which the holder or contributor is a person from Canada who is present in this state or when conducting a transaction in the Canadian securities account of a Canadian citizen who is temporarily present in this state and with whom the dealer or agent has a preexisting client relationship.

(b) - (c) (No change.)

(d) The State Securities Board, pursuant to the Texas Securities Act, §4005.024 [~~§5.T~~], exempts from the securities registration requirements of the Texas Securities Act, Chapter 4003, Subchapters A, B, and C [~~§7~~], the offer and sale of any securities effected by a Canadian dealer pursuant to this section.

(e) (No change.)

§139.22. Exemption for Investment Adviser to a High Net Worth Family Entity.

(a) The State Securities Board, pursuant to the Texas Securities Act, §4004.001 [~~§5.T and §12.C~~], exempts an investment adviser and its investment adviser representatives from the registration requirements of the Act, §4004.052 and §4004.102 [~~§12~~], when such adviser:

(1) - (2) (No change.)

(b) - (c) (No change.)

§139.23. Registration Exemption for Investment Advisers to Private Funds.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) - (5) (No change.)

(6) Venture Capital Fund--A Private Fund that meets the definition of a venture capital fund in SEC Rule 203(l)-1 (17 CFR §275.203(l)-1, as amended) [~~, 17 CFR §275.203(l)-1~~].

(b) Exemption for Private Fund Advisers. Subject to the additional requirements of this section, the State Securities Board, pursuant to the Texas Securities Act, §4004.001 [~~§5.T and §12.C~~], exempts from the investment adviser registration requirements of the Texas Securities Act, §4004.052 [~~§12~~], a Private Fund Adviser satisfying each of the following conditions and limitations:

(1) The Private Fund Adviser files with the Securities Commissioner each report and amendment thereto that an exempt reporting adviser is required to file with the SEC [~~Securities and Exchange Commission~~] pursuant to SEC Rule 204-4 (17 CFR §275.204-4, as amended)[~~, 17 CFR §275.204-4~~]. These filings are to be made electronically through the Investment Adviser Registration Depository (IARD). A report shall be deemed filed when the report required by subsection (b) of this section is filed and accepted by the IARD on the state's behalf.

(2) Except as provided in paragraph (3) of this subsection, neither the Private Fund Adviser, nor any of its advisory affiliates, as that term is defined in the Instructions to Part 1A of Form ADV, are subject to the following disqualifications:

(A) any of those described in Rule 262 of SEC Regulation A (17 CFR §230.262, as amended)[~~, 17 CFR §230.262~~];

(B) - (G) (No change.)

(3) (No change.)

(c) Additional requirements for Private Fund Advisers to certain 3(c)(1) Funds. In order to qualify for an exemption pursuant to this section, a Private Fund Adviser who advises at least one 3(c)(l) Fund that is not a Private Equity Fund, Real Estate Fund, or Venture Capital Fund shall comply with the following additional requirements:

(1) the Private Fund Adviser shall advise only those 3(c)(1) Funds (other than Private Equity Funds, Real Estate Funds, and Venture Capital Funds) whose outstanding securities (other than short-term paper) are beneficially owned entirely by persons who would each meet the definition of a qualified client in SEC Rule 205-3 (17 CFR §275.205-3, as amended)[, ~~17 CFR §275.205-3~~], at the time the securities are purchased from the issuer; provided that if an entity was organized and exists only for the purpose of acquiring an interest in the 3(c)(1) Fund, each beneficial owner of such entity must be a qualified client; and

(2) (No change.)

(d) Federal covered investment advisers. If a Private Fund Adviser is registered with the SEC [~~Securities and Exchange Commission~~], the adviser shall not be eligible for this exemption and shall comply with the state notice filing requirements applicable to federal covered investment advisers in the Texas Securities Act, Chapter 4004, Subchapter G [~~§12-1~~].

(e) Investment adviser representatives. An investment adviser representative is exempt from the registration requirements of the Texas Securities Act, §4004.102 [~~§12~~], if he or she is employed by or associated with an investment adviser that is exempt from investment adviser registration in this state pursuant to this section and does not otherwise act as an investment adviser representative.

(f) (No change.)

§139.24. Charitable Organizations Assisting Economically Disadvantaged Clients with Texas Qualified Tuition Program Plans.

(a) (No change.)

(b) Exemption from dealer, agent, investment adviser, and investment adviser representative registration. The State Securities Board, pursuant to the Texas Securities Act, §4004.001 [~~§12.C~~], exempts a charitable organization and its financial coaches and counselors from the dealer, agent, investment adviser, and investment adviser representative registration requirements of the Texas Securities Act, when their securities-related activities are limited to:

(1) - (2) (No change.)

(c) (No change.)

§139.26. Intrastate Crowdfunding Exemption for SEC Rule 147A Offerings.

(a) General. The State Securities Board, pursuant to the Texas Securities Act (Act), §4005.024 [~~Section 5.T~~], exempts from the securities registration requirements of the Act, any offer or sale of securities of an issuer made in compliance with SEC [~~Securities and Exchange Commission (SEC)~~] Rule 147A (17 CFR §230.147A, as amended)[, ~~17 CFR §230.147A~~], through a registered general dealer or a registered Texas crowdfunding portal, provided that all the requirements of this section are satisfied.

(b) - (j) (No change.)

(k) Disqualifications.

(1) (No change.)

(2) This exemption is not available if the issuer, the issuer's predecessors, any affiliated issuer, or any control person of the issuer:

(A) within the last five years, has filed a registration statement which is the subject of a currently effective registration stop order entered by any state securities administrator or the SEC [~~United States Securities and Exchange Commission~~];

(B) - (D) (No change.)

(3) - (4) (No change.)

§139.27. Mergers and Acquisitions Dealer Exemption.

(a) Dealer and agent exemption. The State Securities Board, pursuant to the Texas Securities Act, §4004.001 [~~Section 12.C~~], exempts a Mergers and Acquisitions (M&A) Dealer from registration as a dealer provided the conditions set forth in this section are met. The agents for the M&A Dealer are also exempt from registration provided the conditions set forth in this section are met.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) - (4) (No change.)

(5) Business Combination Related Shell Company--a Shell Company (as defined in SEC Rule 405) (17 CFR §230.405, as amended) that is:

(A) (No change.)

(B) formed by an entity that is not a Shell Company solely for the purpose of completing a business combination transaction (as defined in SEC Rule 165(f)) (17 CFR §230.165(f), as amended) among one or more entities other than the Shell Company, none of which is a Shell Company.

(c) Qualifying M&A Transactions. To be a Qualifying M&A Transaction, the transaction must meet all the following requirements.

(1) - (6) (No change.)

(7) Any securities received by the buyer or M&A Dealer in a Qualifying M&A Transaction are restricted securities within the meaning of the Securities Act of 1933, Rule 144(a)(3) (17 CFR §230.144(a)(3), as amended).

(d) - (f) (No change.)

(g) Disqualifications.

(1) Except as provided in paragraph (2) of this subsection, the exemption in this section is not available if the M&A Dealer, or an officer, director, or employee of the M&A Dealer are subject to any of the following disqualifications:

(A) any of those described in Rule 262 of SEC Regulation A (17 CFR §230.262, as amended)[, ~~17 CFR §230.262~~];

(B) - (G) (No change.)

(2) (No change.)

(h) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 28, 2024.

TRD-202402897

Travis J. Iles
Securities Commissioner
State Securities Board
Earliest possible date of adoption: August 11, 2024
For further information, please call: (512) 305-8303

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TITLE 22. EXAMINING BOARDS

PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

CHAPTER 131. ORGANIZATION AND ADMINISTRATION

SUBCHAPTER A. SCOPE AND DEFINITIONS

22 TAC §131.2

The Texas Board of Professional Engineers and Land Surveyors (Board) proposes amendments to 22 Texas Administrative Code, Chapter 131, regarding the licensing of professional engineers, and specifically §131.2, relating to Definitions. This proposed change is referred to as "proposed rule."

BACKGROUND AND SUMMARY

The rules under 22 Texas Administrative Code, Chapter 131 implement Texas Occupations Code, Chapter 1001, the Texas Engineering Practice Act.

SECTION-BY-SECTION SUMMARY

The proposed rule updates the name of one of the accrediting agencies. The North Central Association was dissolved in 2014 and replaced by the Higher Learning Commission (HLC).

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Mr. Rick Strong, P.E., Director of Licensing and Registration for the Board, has determined that for each year of the first five years the proposed rule is in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rule.

Mr. Strong has determined that for each year of the first five years the proposed rule is in effect, there is no estimated increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed rule.

LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Strong has determined that the proposed rule will not affect the local economy, so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

PUBLIC BENEFITS

Mr. Strong has determined that for each year of the first five-year period the proposed rule is in effect, the public benefit will be improved clarity for the definitions.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Strong has determined that for each year of the first five-year period the proposed rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because no new requirements are part of the proposed rules.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse effect on small businesses, micro-businesses, or rural communities as a result of the proposed rule. Since the agency has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rule does not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed rule is in effect, the agency has determined the following:

1. The proposed rule does not create or eliminate a government program.

2. Implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions.

3. Implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the agency.

4. The proposed rule does not require an increase or decrease in fees paid to the agency.

5. The proposed rule does not create a new regulation.

6. The proposed rules do not expand, limit, or repeal an existing regulation.

7. The proposed rule does not increase the number of individuals subject to the rule's applicability.

8. The proposed rule does not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Board has determined that no private real property interests are affected by the proposed rule and the proposed rule does not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

ENVIRONMENTAL RULE ANALYSIS

The Board has determined that the proposed rule is not brought with the specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Board asserts the proposed rule is not a "major environmental rule," as defined by Government Code §2001.0225. As a result, the

Board asserts preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

PUBLIC COMMENTS

Any comments or request for a public hearing may be submitted, no later than 30 days after the publication of this notice, to Lance Kinney, Ph.D., P.E., Executive Director, Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741, faxed to his attention at (512) 440-0417 or sent by email to rules@pels.texas.gov.

STATUTORY AUTHORITY

The proposed rule is proposed pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state.

No other codes, articles, or statutes are affected by this proposal.

§131.2. Definitions.

In applying the Texas Engineering Practice Act, the Professional Land Surveying Practices Act, and the board rules, the following definitions shall prevail unless the word or phrase is defined in the text for a particular usage. Singular and masculine terms shall be construed to include plural and feminine terms and vice versa.

(1) ABET - ABET, Inc., formerly the Accreditation Board for Engineering and Technology.

(2) Acts - The Texas Engineering Practice Act, Texas Occupations Code Chapter 1001, and the Professional Land Surveying Practices Act, Texas Occupations Code Chapter 1071.

(3) Advisory Opinion - A statement of policy issued by the board that provides guidance to the public and regulated community regarding the board's interpretation and application of Chapter 1001, Texas Occupations Code, and/or board rules related to the practice of engineering.

(4) Agency or Board - Texas Board of Professional Engineers and Land Surveyors.

(5) ANSAC/ABET - Applied and Natural Science Accreditation Commission of ABET. Previously the Applied Science Accreditation Commission (ASAC) of ABET.

(6) Applicant - A person applying for a license or registration to practice professional engineering or land surveying or a firm applying for a certificate of registration to offer or provide professional engineering or land surveying services.

(7) Application - The forms, information, and fees necessary to obtain a license, registration, or certification issued by the Board.

(8) Complainant - Any party who has filed a complaint with the board against a person or entity subject to the jurisdiction of the board.

(9) Construction estimate - As used in §1071.004, a depiction of a possible easement route for planning purposes.

(10) Contested case - A proceeding, including but not restricted to rate making and licensing, in which the legal rights, duties, or privileges of a party are to be determined by an agency after an opportunity for adjudicative hearing pursuant to the Administrative Procedure Act, Chapter 2001, Texas Government Code.

(11) Direct supervision - The control over and detailed professional knowledge of the work prepared under the engineer or land surveyor's supervision. Direct Supervision entails that the engineer or land surveyor personally makes decisions or personally reviews and approves proposed decisions prior to their implementation and has control over the decisions either through physical presence or the use of communications devices. Direct Supervision entails that a land surveyor be able to give instructions for research of adequate thoroughness to support collection of relevant data, the placement of all monuments, and the preparation and delivery of all surveying documents.

(12) EAC/ABET - Engineering Accreditation Commission of ABET.

(13) EAOR number - An engineering advisory opinion request file number assigned by the executive director to a pending advisory opinion in accordance with this chapter.

(14) Electronic Seal - For the purposes of this Chapter, an electronic seal is a digital representation of a licensee or registrant's seal including, but not limited to, a digital scan of a physical seal.

(15) Electronic Signature - For the purposes of this Chapter, an electronic signature is a digital representation of a licensee or registrant's signature including, but not limited to, a digital scan of a physical signature.

(16) Engineering - The profession in which a knowledge of the mathematical, physical, engineering, and natural sciences gained by education, experience, and practice is applied with judgment to develop ways to utilize, economically, the materials and forces of nature for the benefit of mankind.

(17) Engineering Act - The Texas Engineering Practice Act, Texas Occupations Code Chapter 1001.

(18) ETAC/ABET - Engineering Technology Accreditation Commission of ABET.

(19) Firm - Any business entity that engages or offers to engage in the practice of professional engineering or land surveying in this state. The term includes but is not limited to companies, corporations, partnerships, or joint stock associations, and for engineering also includes sole practitioners and sole proprietorships.

(20) Good Standing - (License or Registration) - A license or registration that is current, eligible for renewal, and has no outstanding fees or payments.

(21) Gross negligence - Any deliberate conduct, or pattern of conduct, whether by act or omission that demonstrates a disregard or indifference to the rights, health, safety, welfare, and property of the public or clients. Gross negligence may result in financial loss, injury or damage to life or property, but such results need not occur for the establishment of such conduct.

(22) License - The legal authority permitting the holder to actively practice engineering or land surveying. Also, a certificate issued by the board showing such authority.

(23) License Holder - Any person whose license or registration to practice engineering or land surveying is current.

(24) Misconduct - The violation of any provision of the Texas Engineering Practice Act, the Professional Land Surveying Act, or board rules.

(25) NAFTA - North American Free Trade Agreement. NAFTA is related to the practice and licensure of engineering through mutual recognition of registered/licensed engineers by jurisdictions of Canada, Texas, and the United Mexican States.

(26) NCEES - National Council of Examiners for Engineering and Surveying.

(27) Person - Any individual, firm, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than a governmental agency.

(28) Professional engineering - Professional service which may include consultation, investigation, evaluation, planning, designing, or direct supervision of construction, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects wherein the public welfare, or the safeguarding of life, health, and property is concerned or involved, when such professional service requires the application of engineering principles and the interpretation of engineering data.

(29) Professional Engineering Services - Services which meet the definition of the practice of engineering as defined in the Act, §1001.003, and which are required by statute or rule to be performed by or under the direct supervision of a licensed engineer. A service shall be conclusively considered a professional engineering service if it is delineated in that section; other services requiring a professional engineer by contract, or services where the adequate performance of that service requires an engineering education, training, or experience in the application of special knowledge or judgment of the mathematical, physical or engineering sciences to that service are also considered a professional engineering service.

(30) Professional Surveying - The practice of land, boundary, or property surveying or other similar professional practices.

(31) Recognized institution of higher education--An institution of higher education as defined in §61.003, Education Code; or in the United States, an institution recognized by one of the six regional accrediting associations, specifically, the New England Association of Schools and Colleges, the Higher Learning Commission [~~North Central Association Commission on Accreditation and School Improvement~~], the Northwest Association of Schools and Colleges, the Southern Association of Colleges and Schools, the Western Association of Schools and Colleges, or the Middle States Association of Colleges & Schools; or, outside the United States, an institution recognized by the Ministry of Education or the officially recognized government education agency of that country; or a program accredited by ABET.

(32) Registration - The legal authority permitting the holder to actively practice engineering or land surveying. Also, a certificate issued by the board showing such authority.

(33) Respondent - The person or party that is the subject of a complaint filed with the board.

(34) Responsible charge - Synonymous with the term "direct supervision"; used interchangeably with "direct supervision".

(35) Responsible supervision - An earlier term synonymous with the term "direct supervision;" the term is still valid and may be used interchangeably with "direct supervision" when necessary.

(36) Seal - An embossed, stamped, or electronic design authorized by the Board that authenticates, confirms, or attests that a person is authorized to offer and practice engineering or land surveying services to the public in the State of Texas and has legal consequence when applied.

(37) Sole Practitioner - A firm that consists of an individual license holder with no other employees.

(38) Supervision of Engineering Construction - As used in §1001.407 of the Act, includes the periodic observation of materials and completed work to determine general compliance with plans, specifications and design and planning concepts. Supervision of engineering construction does not include the construction means and methods; responsibility for the superintendence of construction processes, site conditions, operations, equipment, personnel; or the maintenance of a safe place to work or any safety in, on or about the site.

(39) Surveying Act - the Professional Land Surveying Practices Act, Texas Occupations Code Chapter 1071.

(40) Surveying Report - Survey drawing, written description, and/or separate narrative depicting the results of a land survey performed and conducted pursuant to this Act.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Lance Kinney, Ph.D., P.E.
Executive Director
Texas Board of Professional Engineers and Land Surveyors
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For further information, please call: (512) 440-7723

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CHAPTER 133. LICENSING FOR ENGINEERS

The Texas Board of Professional Engineers and Land Surveyors (Board) proposes amendments to 22 Texas Administrative Code, Chapter 133, regarding the licensing of professional engineers. The proposed amendments are specifically to §133.31, relating to Educational Requirements for Applicants, §133.43, relating to Experience Evaluations, §133.53, relating to Reference Statements, §133.67, relating to Examinations on the Principles and Practice of Engineering, and §133.69, relating to Waiver of Examinations, regarding the licensing of professional engineers. These proposed changes are referred to as "proposed rules."

BACKGROUND AND SUMMARY

The rules under 22 Texas Administrative Code, Chapter 133 implement Texas Occupations Code, Chapter 1001, the Texas Engineering Practice Act. The proposed rules address the Board's ability to evaluate education credentials, consider experience of applicants, how the experience is verified by references, how applicants take exams, and qualifications needed to waive exams.

SECTION-BY-SECTION SUMMARY

The proposed rules amend §133.31 to remove language that is no longer used by the Board when evaluating education credentials of applicants.

The proposed rules amend §133.43 to clarify when a year of experience credit may be granted for post-baccalaureate degree. The proposed rules clarify that experience gained as part of an undergraduate or graduate education is not able to be used for experience credit. The proposed rules clarify that a calendar period claimed as surveying experience cannot also be claimed for engineering experience. Companion amendments to Chapter 134 establish proposed rules to clarify that a calendar period claimed as engineering experience cannot also be claimed as surveying experience.

The proposed rules amend §133.53 to expand the manner the Board can receive reference statements. The practice of only

accepting reference statements that have been sealed in an envelope with a signature across the flap is not the only way to convey the statements securely. The proposed language is broad to allow different forms of transmittal, especially electronically (via email or electronically uploading the document to a secure location).

The proposed rules amend §133.67 to expand the manner applicants are qualified to take exams. The proposed rules remove a limitation on the maximum number of exams applicants may take and allow applicants who are approved to take the Principles and Practice of Engineering exam the ability to take the exam until passing. Companion amendments to Chapter 134 establish the same criteria for surveyors taking the Principles and Practice of Surveying exam.

The proposed rules amend §133.69 to clarify the requirements applicants must meet to waive the Principles and Practice of Engineering exam.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Mr. Rick Strong, P.E., Director of Licensing and Registration for the Board, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rules.

Mr. Strong has determined that for each year of the first five years the proposed rules are in effect, there is no estimated increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Strong has determined that the proposed rules will not affect the local economy, so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

PUBLIC BENEFITS

Mr. Strong has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be improved clarity of the rules' language for the public and efficiency of Board operations.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Strong has determined that for each year of the first five-year period the proposed rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because no new requirements are part of the proposed rules.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse effect on small businesses, micro-businesses, or rural communities as a result of the proposed rules. Since the agency has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rules do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed rules are in effect, the agency has determined the following:

1. The proposed rules do not create or eliminate a government program.

2. Implementation of the proposed rules do not require the creation of new employee positions or the elimination of existing employee positions.

3. Implementation of the proposed rules do not require an increase or decrease in future legislative appropriations to the agency.

4. The proposed rules do not require an increase or decrease in fees paid to the agency.

5. The proposed rules do not create a new regulation.

6. The proposed rules do not expand, limit, or repeal an existing regulation.

7. The proposed rules do not increase the number of individuals subject to the rule's applicability.

8. The proposed rules do not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Board has determined that no private real property interests are affected by the proposed rules and the proposed rules do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rules do not constitute a taking or require a takings impact assessment under Government Code §2007.043.

ENVIRONMENTAL RULE ANALYSIS

The Board has determined that the proposed rules are not brought with the specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Board asserts the proposed rules are not a "major environmental rule," as defined by Government Code §2001.0225. As a result, the Board asserts preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

PUBLIC COMMENTS

Any comments or request for a public hearing may be submitted, no later than 30 days after the publication of this notice, to Lance Kinney, Ph.D., P.E., Executive Director, Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741, faxed to his attention at (512) 440-0417 or sent by email to rules@pels.texas.gov.

SUBCHAPTER D. EDUCATION

22 TAC §133.31

STATUTORY AUTHORITY

The amended rules are proposed pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make

and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state.

No other codes, articles, or statutes are affected by this proposal.

§133.31. Educational Requirements for Applicants.

(a) Applicants for a license shall have graduated from at least one of the following degree programs or degree program combinations listed in this section:

(1) Approved engineering curriculums under §1001.302(a)(1)(A) of the Act. The following degrees are acceptable to the board for meeting the educational requirements of §1001.302(a)(1)(A) of the Act:

(A) a degree from an engineering program accredited or otherwise approved by:

(i) EAC/ABET;

(ii) Consejo de Acreditacion de la Ensenanza de la Ingenieria, Mexico (Council of Accreditation for Engineering Education, C.A.); or

(iii) The Washington Accord.

(B) A graduate degree in engineering, provided that:

(i) the graduate degree is obtained from a college having an engineering program approved by one of the organizations listed in subparagraph (A) of this paragraph where either the graduate or undergraduate degree in the same discipline is accredited; and

(ii) the combination of the degrees is acceptable to the board as equivalent in EAC/ABET approved curricula content, and the combination of degrees contain sufficient design curricula to provide minimal competency in the use of engineering algorithms and procedures.

(C) a completed degree that has not been accredited or approved by either of the organizations identified in subparagraph (A) of this paragraph but has been evaluated in accordance with §133.33 of this chapter, (relating to Proof of Educational Qualifications-Non-Accredited/Non-Approved Programs), and determined to meet the ABET general and program criteria requirements for an EAC/ABET-accredited or -approved program.

(2) Other programs under §1001.302(a)(1)(B) of the Act. The following degrees are acceptable to the board for meeting the educational requirements of §1001.302(a)(1)(B) of the Act:

(A) a bachelor degree from an engineering technology program that is accredited by the ETAC/ABET;

(B) A bachelors or graduate degree in engineering, engineering technology, mathematical, physical, or related science that has not been accredited or approved by any of the organizations identified in paragraphs (1)(A) or (2)(A) of this subsection but has been obtained from a recognized institution of higher education as defined in Chapter 131 of this title. Such degree programs must include, as a minimum, the courses listed in clauses (i) and (ii) of this subparagraph or these courses must be taken in addition to the bachelor or graduate degree program:

(i) eight semester hours (12 quarter hours) of mathematics beyond trigonometry, including differential and integral calculus; and

(ii) 20 semester hours (30 quarter hours) of related engineering sciences including subjects such as mechanics, thermodynamics, electrical and electronic circuits, and others selected from material sciences, transport phenomena, computer science and comparable subjects depending on the discipline or branch of engineering. Course work should incorporate hands-on laboratory work as described in the EAC/ABET criteria, and shall contain a sufficient design program to provide minimal competency in the use of engineering algorithms and procedures.

(3) Degree programs submitted to the board by the conferring institutions and determined by the board as meeting or exceeding the criteria of either of the accrediting organizations referred to in this section.

(A) The following programs have been reviewed by the board and determined to be eligible for licensure under §1001.302(a)(1)(A) of the Act:

(i) The engineering programs at the University of Texas at Tyler for those who graduated in 1999.

(ii) Biosystems engineering program at the University of Texas A&M at College Station for those who graduated between 1999 and 2003.

(B) The following programs have been reviewed by the board and determined to be eligible for licensure under §1001.302(a)(1)(B) of the Act and eligible for taking the examination on the fundamentals of engineering, effective the date listed:

(i) Tarleton State University, Accepted Programs: Hydrology (1992) and Engineering Physics (2001);

(ii) West Texas State A&M, Accepted Program: Mechanical Engineering (2003).

(b) Degree programs that have not been accredited or approved by any of the organizations identified in subsection (a)(1)(A) or (2)(A) of this section are not acceptable for fulfilling the educational requirements of the Act if they do not meet the definition of a recognized institution of higher learning as defined in Chapter 131 of this title and:

(1) give credit for life experience; or

(2) consist primarily of engineering, mathematical, physical, or engineering sciences courses that are correspondence courses that are self-taught outside a formal classroom setting.

~~[(c) Applicants who have graduated from a degree program that is accredited by the jurisdictional authority in the Canadian or European community that have been evaluated pursuant to §133.33 of this chapter (relating to Proof of Educational Qualifications/Non-Accredited/Non-Approved Programs) and contain sufficient course hours to meet the requirements of subsection (a)(2)(B) of this section but not found to have sufficient course hours to be deemed equivalent or comparable to a Bachelor of Science degree as would be issued by a recognize institution of higher education in the United States may apply for licensure solely through the examination process.]~~

(c) ~~[(d)]~~ An applicant holding a verified Canadian P.Eng. or ing. License shall be considered to have academic qualifications substantially equivalent to an accredited engineering program.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 28, 2024.

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Lance Kinney, Ph.D., P.E.
Executive Director
Texas Board of Professional Engineers and Land Surveyors
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SUBCHAPTER E. EXPERIENCE

22 TAC §133.43

STATUTORY AUTHORITY

The amended rules are proposed pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state.

No other codes, articles, or statutes are affected by this proposal.

§133.43. Experience Evaluation.

(a) The board shall evaluate the nature and quality of the experience found in the supplementary experience record or the NCEES record experience information and shall determine if the work is satisfactory to the board for the purpose of issuing a license to the applicant. The board shall evaluate the supplementary experience record for evidence of the applicant's competency to be placed in responsible charge of engineering work of a similar character.

(1) Engineering work shall be satisfactory to the board and, therefore, considered by the board to be creditable engineering experience for the purpose of licensure if it is of such a nature that its adequate performance requires engineering education, training, or experience. The application of engineering education, training and experience must be demonstrated through the application of the mathematical, physical, and engineering sciences. Such work must be fully described in the supplementary experience record. Satisfactory engineering experience shall include an acceptable combination of design, analysis, implementation, and/or communication experience, including the following types of engineering activities:

(A) design, conceptual design, or conceptual design coordination for engineering works, products or systems;

(B) development or optimization of plans and specifications for engineering works, products, or systems;

(C) analysis, consultation, investigation, evaluation, planning or other related services for engineering works, products, or systems;

(D) planning the use or alteration of land, water, or other resources;

(E) engineering for program management and for development of operating and maintenance manuals;

(F) engineering for construction, or review of construction;

(G) performance of engineering surveys, studies, or mapping;

(H) engineering for materials testing and evaluation;

(I) expert engineering testimony;

(J) any other work of a mechanical, electrical, electronic, chemical, hydraulic, pneumatic, geotechnical, or thermal nature that requires engineering education, training or experience for its adequate performance; and

(K) the teaching of engineering subjects by a person who began teaching prior to September 1, 2001.

(2) In the review of engineering experience, the board may consider additional elements including:

(A) whether the experience was sufficiently complex and diverse, and of an increasing standard of quality and responsibility;

(B) whether the quality of the engineering work shows minimum technical competency;

(C) whether the experience was gained in accordance with the provisions of the Act;

(D) whether the experience was gained in one dominant branch;

(E) whether non-traditional engineering experience such as sales or military service provides sufficient depth of practice;

(F) whether short engagements have had an impact upon professional growth;

(G) whether the applicant intends to practice or offer engineering services in Texas; and

(H) whether the experience was supplemented by training courses or participation in engineering organizations or societies that contribute to the applicant's competence and readiness for licensure (consistent with the requirements listed in §137.17 of this title (relating to Continuing Education Program)).

(3) Engineering experience may be considered satisfactory for the purpose of licensing provided that:

(A) the experience is gained during an engagement longer than three months in duration;

(B) the experience, when taken as a whole, meets the minimum time;

(C) the experience is not anticipated and has actually been gained at the time of application;

(D) the experience includes at least two years of experience in the United States, not including time claimed for educational credit, or otherwise includes experience that would show a familiarity with US codes and engineering practice; and

(E) the time granted for the experience claimed does not exceed the calendar time available for the periods of employment claimed and the calendar time has not been claimed for surveying experience in a surveying application.

(b) Experience credit may be granted for experience gained prior to an applicant's receiving a conferred degree per §133.31 of this chapter (relating to Educational Requirements [~~Requirement~~] for Applicants). Effective January 1, 2009, experience gained in this manner is limited to a total of two years, and must:

(1) be substantiated in the supplementary experience record and a reference statement provided for the experience;

(2) be accounted for proportionally to a standard 40-hour work week, if it was part-time employment; and

(3) reflect that, at the time the experience was gained, the applicant had passed junior and/or senior level engineering or related

engineering science courses and applied relevant engineering knowledge in the claimed experience.

(c) One year of experience credit may be granted for each post-baccalaureate engineering degree earned by an applicant, provided:

(1) the applicant has a baccalaureate or other post-baccalaureate degree in engineering meeting the requirements of §133.31 (a)(1) of this chapter (concerning Educational Requirements for Applicants); and

(2) the post-baccalaureate degree is from an engineering program where either the graduate or undergraduate degree in the same discipline is accredited or approved by one of the organizations listed in §133.31(a)(1) of this chapter [(~~concerning Educational Requirements for Applicants~~)]. Experience credit for all post-baccalaureate degrees is limited to a total of two years.

(d) Engineering Educators applying for a waiver of examinations under §133.69 of this chapter (relating to Waiver of Examinations) will not receive additional experience credit pursuant to subsection (c) of this section.

(e) Experience that has received educational credit or has been gained as part of an education [~~in conjunction with or in relation to earning a post-baccalaureate degree, such as research or teaching assistant work,~~] will not be credited as experience [~~in addition to experience credited pursuant to subsection (c) of this section~~].

(f) For Engineering Educator applicants applying under §133.25 of this chapter (relating to Applications from Engineering Educators), other acceptable creditable engineering experience may include, but is not limited to, scholarly activity such as publishing papers in technical and professional journals; making technical and professional presentations; publishing books and monographs; performing sponsored research; reporting on research conducted for sponsors; supervising research of undergraduate and graduate students, postdoctoral fellows, or other employees; providing counseling, guidance, and advisement for engineering students; and performing certain other types of formal or informal functions in higher education.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Lance Kinney, Ph.D., P.E.
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SUBCHAPTER F. REFERENCE DOCUMENTATION

22 TAC §133.53

STATUTORY AUTHORITY

The amended rules are proposed pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state.

No other codes, articles, or statutes are affected by this proposal.

§133.53. Reference Statements.

(a) The applicant shall make available to each reference provider, the board's reference statement form and a complete copy of the applicable portion(s) of the supplementary experience record.

(b) Persons providing reference statements verifying an applicant's engineering experience shall:

(1) complete and sign the reference statement in a format prescribed by the board; and

(2) review, evaluate, and sign all applicable portions of the supplementary experience record(s). The reference provider's signature indicates that he has read the supplementary experience record(s), that the record(s) are correct to the best of his knowledge, and that the experience is relevant to licensure. If the reference provider disagrees with or has comments or clarification to the information provided by the applicant, the reference provider should submit written comments or concerns to the board.

(3) for the purposes of this section, a reference statement and associated portions of the applicant's supplementary experience record submitted directly to the board through a secure method prescribed by the board will be considered "signed" as required in this subsection.

(c) The reference provider shall submit to the board both the reference statement and the supplementary experience record.

(d) For any reference statement to meet the requirements of the board, the reference statement must be securely submitted in a manner acceptable to the board [~~secured~~]. Any tampering of the reference statements by the applicant could result in denial of the application. [~~For a reference statement to be considered secure, the reference provider shall:~~]

[~~(1) place the completed reference statement and reviewed supplementary experience records in an envelope;~~]

[~~(2) seal the flap of the envelope;~~]

[~~(3) after sealing the envelope, the reference provider shall sign across the sealing edge of the flap of the envelope and cover the signature with transparent tape; and~~]

[~~(4) the reference provider shall return the sealed envelope to the applicant or transmit the documents directly to the board.~~]

(e) Secured reference envelopes shall be submitted to the board by applicant or reference provider.

(f) Reference documents submitted directly to the board by the reference provider in a method prescribed by the board will meet the requirements of subsection (d) of this section.

(g) Evidence of retaliation by an applicant against a person who provides reference material for an application may be considered in the application process as described in §133.81 of this chapter (relating to Receipt of Applications).

(h) The NCEES record reference documentation may be accepted as reference statements as specified in this section.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER G. EXAMINATIONS

22 TAC §133.67, §133.69

STATUTORY AUTHORITY

The amended rules are proposed pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state.

No other codes, articles, or statutes are affected by this proposal.

§133.67. Examination on the Principles and Practice of Engineering.

(a) The examination on the principles and practice of engineering is open only to licensed engineers who wish to take the examination for record purposes and to applicants who have received board approval to take it. Applicants who are granted certification as an Engineer-in-Training in accordance with §133.1 of this chapter (relating to Engineer-in-Training Designation) or submit equivalent qualifications at the time of application for licensure shall be approved to take the examination on the principles and practice of engineering.

(b) An applicant approved to take the examination on the principles and practice of engineering:

(1) shall be advised of the date he or she is eligible.

(2) shall schedule to test in any area of competency appropriate to his or her experience or education.

(3) shall be solely responsible for timely scheduling for the examination and any payment of examination fees.

~~[(4) shall have no more than three examination attempts within a four year period starting with the date of the first exam taken by the applicant. No extensions shall be granted except as provided for in §133.61(i) of this chapter (relating to Engineering Examinations Required for a License to Practice as a Professional Engineer).]~~

~~[(5) shall have no more than three attempts for each component if taking the Structural Engineering examination and must receive acceptable results for all components of the exam within a four year period starting with the date of the first exam taken by the applicant.]~~

~~[(6) shall have no more than eight years from the date of approval to complete the allowed exam attempts.]~~

~~[(c) For the purposes of this section, exam attempt means a unique administration of an examination or exam component of any discipline for which attendance is documented.]~~

~~[(d) An applicant who does not pass the examination on the principles and practice of engineering within the approved examination period described in subsection (b) of this section is considered not approved and may not re-apply for approval until he or she has obtained at least one (1) year of additional engineering experience as described in Subchapter E of this chapter (relating to Experience) or until the applicant has completed at least six (6) additional semester hours of formal college level classroom courses relevant to the applicant's dominant branch or discipline of experience. The time period to obtain additional engineering experience or enroll in additional college courses commences on the date of the last exam attempt or when the approved examination period expired. Applicants meeting the additional experience or education requirements must apply in accordance with §133.21 of this chapter (relating to Application for Standard License) and receive approval for additional exam attempts.]~~

(c) [~~(e)~~] The examination on the principles and practice of engineering shall be offered according to the schedule determined by the NCEES or by the board.

~~[(f) Applicants approved to take the examination on the principles and practice of engineering as of August 20, 2020, will have a one year extension to the exam deadline as set out in subsections (b)(4) and (5) of this section.]~~

§133.69. Waiver of Examinations.

(a) Examinations are considered an integral part of the licensing process; all applicants are expected to have passed the examinations or to offer sufficient evidence of their qualifications in the absence of passage of the examinations. The board may waive one or both of the examinations on the fundamentals of engineering or the principles and practice of engineering for applicants who:

(1) do not pose a threat to the public health, safety, or welfare;

(2) request a waiver in writing at the time the application is filed; and

(3) meet the requirements of subsections (b) or (c) of this section.

(b) Waiver of Fundamentals of Engineering Examination. Applications for a waiver of the fundamentals of engineering examination will only be accepted from persons who meet the requirements of paragraphs (1) or (2) of this subsection.

(1) Standard Application:

(A) meet the educational requirements of §1001.302(a)(1)(A) of the Act and have eight or more years of creditable engineering experience, as evaluated by the board under §133.43 of this chapter (relating to Experience Evaluation); or

(B) meet the educational requirements of §1001.302(a)(1)(B) of the Act and have twelve or more years of creditable engineering experience, as evaluated by the board under §133.43 of this chapter.

(2) Engineering Educator: meet the requirements of §133.25(a) and (b) of this chapter (relating to Applications from Engineering Educators).

(c) Waiver of Principles and Practice of Engineering Examination. Applications for a waiver of the principles and practice of engineering examination will only be accepted from persons who meet the requirements of this subsection.

(1) Currently Licensed in U.S. State or Territory or Former Standard Texas License Holder: An applicant who is applying for a standard license and is currently licensed and in good standing in any U.S. state or territory, or a former Texas license holder applying under §133.23 of this chapter (relating to Applications from Former Texas License Holders), shall:

(A) meet the educational requirements of §1001.302(a)(1)(A) of the Act and have 12 or more years of creditable engineering experience, two of which must be practicing

as a registered or licensed engineer in that U.S. State or Territory, as evaluated by the board under §133.43 of this chapter (relating to Experience Evaluation); or

(B) meet the educational requirements of §1001.302(a)(1)(B) of the Act and have 16 or more years of creditable engineering experience, two of which must be practicing as a registered or licensed engineer in that U.S. State or Territory, as evaluated by the board under §133.43 of this chapter;

(2) Engineering Educator:

(A) meet the requirements of §133.25(a) and §133.25(b)(1) of this chapter (relating to Applications from Engineering Educators) and have:

(i) taught in an EAC/ABET-accredited or -approved program for at least six years and began teaching engineering prior to September 1, 2001;

(ii) at least six years of experience consisting of a combination of EAC/ABET teaching experience or other creditable engineering experience, as evaluated by the board under §133.43 of this chapter and began teaching engineering prior to September 1, 2001; or

(iii) at least four years of creditable engineering experience, as evaluated by the board under §133.43 of this chapter; or

(B) meet the requirements of §133.25(a) and §133.25(b)(2) of this chapter and have:

(i) taught in an EAC/ABET-accredited or -approved program for at least eight years and began teaching engineering prior to September 1, 2001;

(ii) at least eight years of experience consisting of a combination of EAC/ABET teaching experience or other creditable engineering experience, as evaluated by the board under §133.43 of this chapter and began teaching engineering prior to September 1, 2001; or

(iii) at least six years of creditable engineering experience, as evaluated by the board under §133.43 of this chapter.

(d) An applicant is not eligible to request a waiver of the examination on the fundamentals of engineering if the applicant has taken and failed any examination on the fundamentals of engineering in any jurisdiction within the previous two years. An applicant is not eligible to request a waiver of the examination on the fundamentals of engineering if the applicant has taken and failed any examination on the fundamentals of engineering in any jurisdiction three or more times.

(e) An applicant is not eligible to request a waiver of the examination on the principles and practice of engineering if the applicant has taken and failed any examination on the principles and practice of engineering in any jurisdiction within the previous four years.

(f) Applicants requesting a waiver from any examination(s) shall file any additional information needed to substantiate the eligibility for the waiver with the application, as provided in §133.51 of this chapter (relating to Reference Providers), and §133.53 of this chapter (relating to Reference Statements). The board shall review all elements of the application to evaluate waiver request(s) and may grant a waiver(s) to qualified applicants.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Lance Kinney, Ph.D., P.E.

Executive Director

Texas Board of Professional Engineers and Land Surveyors

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For further information, please call: (512) 440-7723

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CHAPTER 134. LICENSING, REGISTRATION, AND CERTIFICATION FOR SURVEYORS

The Texas Board of Professional Engineers and Land Surveyors (Board) proposes amendments to 22 Texas Administrative Code, Chapter 134, regarding the licensing, registration, and certification for surveyors. The proposed amendments are specifically to §134.25, relating to Applications from Out-Of-State Registration Holders, §134.43, relating to Experience Evaluations, §134.53, relating to Reference Statements, §134.67, relating to Examinations on the Principles and Practice of Surveying, and §134.68, relating to Licensed State Land Surveyor Examination, regarding the licensing, registration, and certification for surveyors. These proposed changes are referred to as "proposed rules."

BACKGROUND AND SUMMARY

The rules under 22 Texas Administrative Code, Chapter 134 implement Texas Occupations Code, Chapter 1071, the Texas Engineering Practice Act. The proposed rules address the Board's ability to evaluate credentials of out-of-state registration holders, consider experience of applicants, how the experience is verified by references, how applicants take exams, and fees associated with exams administered by the Board.

SECTION-BY-SECTION SUMMARY

The proposed rules amend §134.25 to require reciprocal applicants to meet current licensing requirements and take the Texas Specific Surveying Exam for registration. Reciprocal applicants can currently apply without meeting current licensing requirements, such as education, if their initial out-of-state licensure occurred at a time when such requirements were not in place. Another change makes it clear that reciprocal applicants must take the Texas Specific Surveying Exam for registration in Texas.

The proposed rules amend §134.43 to clarify that a calendar period claimed as engineering experience cannot also be claimed for surveying experience. Companion amendments to Chapter 133 establish proposed rules to clarify that a calendar period claimed as surveying experience cannot also be claimed as engineering experience.

The proposed rules amend §134.53 to expand the manner the Board can receive reference statements. The practice of only accepting reference statements that have been sealed in an envelope with a signature across the flap is not the only way to convey the statements securely. The proposed language is broad to allow different forms of transmittal, especially electronically (via email or electronically uploading the document to a secure location).

The proposed rules amend §134.67 to expand the manner applicants are qualified to take exams. The proposed rules remove a limitation on the maximum number of exams applicants may take and allow applicants who are approved to take the Principles and Practice of Surveying exam the ability to take the exam until the exam is passed. A limit on the number of times the Texas Specific Surveying Exam (TSSE) may be taken before re-apply-

ing will be kept in place. Companion amendments to Chapter 133 establish the same criteria for engineers taking the Principles and Practice of Engineering exam. The proposed rules also clarify that TSSE exam fee will be waived in accordance with Texas Occupations Code Chapter 55.

The proposed rules amend §134.68 to clarify that Licensed State Land Surveyor exam fee will be waived in accordance with Texas Occupations Code Chapter 55.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Mr. Rick Strong, P.E., Director of Licensing and Registration for the Board, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rules.

Mr. Strong has determined that for each year of the first five years the proposed rules are in effect, there is no estimated increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Strong has determined that the proposed rules will not affect the local economy, so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

PUBLIC BENEFITS

Mr. Strong has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be improved clarity of the rules' language for the public and efficiency of Board operations.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Strong has determined that for each year of the first five-year period the proposed rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because no new requirements are part of the proposed rules.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse effect on small businesses, micro-businesses, or rural communities as a result of the proposed rules. Since the agency has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rules do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed rules are in effect, the agency has determined the following:

1. The proposed rules do not create or eliminate a government program.

2. Implementation of the proposed rules do not require the creation of new employee positions or the elimination of existing employee positions.

3. Implementation of the proposed rules do not require an increase or decrease in future legislative appropriations to the agency.

4. The proposed rules do not require an increase or decrease in fees paid to the agency.

5. The proposed rules do not create a new regulation.

6. The proposed rules do not expand, limit, or repeal an existing regulation.

7. The proposed rules do not increase the number of individuals subject to the rule's applicability.

8. The proposed rules do not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Board has determined that no private real property interests are affected by the proposed rules and the proposed rules do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rules do not constitute a taking or require a takings impact assessment under Government Code §2007.043.

ENVIRONMENTAL RULE ANALYSIS

The Board has determined that the proposed rules are not brought with the specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Board asserts the proposed rules are not a "major environmental rule," as defined by Government Code §2001.0225. As a result, the Board asserts preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

PUBLIC COMMENTS

Any comments or request for a public hearing may be submitted, no later than 30 days after the publication of this notice, to Lance Kinney, Ph.D., P.E., Executive Director, Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741, faxed to his attention at (512) 440-0417 or sent by email to rules@pels.texas.gov.

SUBCHAPTER C. LAND SURVEYOR APPLICATION REQUIREMENTS

22 TAC §134.25

STATUTORY AUTHORITY

The amended rules are proposed pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state.

No other codes, articles, or statutes are affected by this proposal.

§134.25. Application from Out-Of-State Registration Holders.

(a) An applicant who holds a license or registration as a professional land surveyor from another state or U.S. jurisdiction having registration or licensing requirements substantially equivalent to the requirements of Texas may apply for a standard license.

(b) The Board shall determine whether the licensing or registration standards of the governmental authority under which the reciprocal applicant is licensed or registered are substantially equivalent to those standards required in the State of Texas [~~at the time of licensure by the reciprocal state~~].

(c) The [~~If the Board determines that such standards are not substantially equivalent, the~~] Board shall [~~may~~] require the reciprocal applicant to take and pass an examination not to exceed four (4) hours as required for applicants under §1071.259 of the Surveying Act.

(d) To be eligible for registration as a registered professional land surveyor (RPLS), one must submit a completed application.

(e) Applicants must speak and write the English language. Proficiency in English may be evidenced by possession of an accredited degree taught exclusively in English, or passage of the Test of English as a Foreign Language (TOEFL) with a written score of at least 550, a computer based score of at least 200 or an internet based score of at least 95 or other evidence such as significant academic or work experience in English acceptable to the executive director.

(f) Applicants for a registration shall submit:

(1) an application in a format prescribed by the board and shall:

(A) list his or her full, legal and complete name without abbreviations, nicknames, or other variations of the full legal name. If applicable, the applicant shall submit proof of a legal name change including but not limited to a marriage certificate, passport, current Driver's License issued by the State of Texas, court documents, or nationalization documents to substantiate other documentation submitted in the application; and

(B) list social security number, as required under the Texas Family Code, §231.302;

(2) current application fee as established by the board. Application fees shall be waived for qualifying military service members, military veterans, and military spouses in accordance with Texas Occupations Code Chapter 55;

(3) proof of educational credentials pursuant to Subchapter D of this chapter (relating to Education);

(4) supplementary experience record as required under §134.41 of this chapter (relating to Supplementary Experience Record);

(5) reference statements as required under Subchapter F of this chapter (relating to Reference Documentation); and

(6) documentation of passing scores on examination(s), which may include official verifications from the National Council of Examiners for Engineering and Surveying (NCEES) or other jurisdictions as required under §134.61(g) of this chapter (relating to Surveying Examinations);

(7) verification of a current license from another jurisdiction;

(8) TOEFL scores, if applicable;

(9) information regarding any criminal history including any judgments, deferred judgments or pre-trial diversions for a misdemeanor or felony provided in a form prescribed by the board together with copies of any court orders or other legal documentation concerning the criminal charges and the resolution of those charges; and

(10) for applications submitted on or after September 1, 2020, documentation of submittal of fingerprints for criminal history record check as required by Texas Occupations Code §1001.272.

(g) The NCEES record may be accepted as verification of an original transcript, licenses held, examinations taken, experience record and reference documentation to meet the conditions of subsection (d)(3) - (7) of this section.

(h) Once an application is accepted for review, the fee shall not be returned, and the application and all submissions shall become a permanent part of the board records.

(i) An applicant who is a citizen of another country shall show sufficient documentation to the board to verify the immigration status for the determination of his or her eligibility for a professional license in accordance with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(j) Once an application under this section is accepted for review, the board will follow the procedures in §134.83 of this chapter (relating to Processing, Review, and Evaluation of Applications) to review and approve or deny the application. The board may request additional information or require additional documentation to ensure eligibility as needed. Pursuant to Texas Occupations Code §1001.453 the board may review the license holder's status and take action if the license was obtained by fraud or error or if the license holder may pose a threat to the public's health, safety, or welfare.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 28, 2024.

TRD-202402878
Lance Kinney, Ph.D., P.E.
Executive Director
Texas Board of Professional Engineers and Land Surveyors
Earliest possible date of adoption: August 11, 2024
For further information, please call: (512) 440-7723

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SUBCHAPTER E. EXPERIENCE

22 TAC §134.43

STATUTORY AUTHORITY

The amended rules are proposed pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state.

No other codes, articles, or statutes are affected by this proposal.

§134.43. Experience Evaluation.

(a) The board shall evaluate the nature and quality of the experience found in the supplementary experience record or the NCEES record experience information and shall determine if the work is satisfactory to the board for the purpose of issuing a license to the applicant. The board shall evaluate the supplementary experience record for evi-

dence of the applicant's competency to be placed in responsible charge of land surveying work of a similar character.

(b) The following standards are to be used in evaluating experience:

(1) All experience must be obtained under the direction and guidance of one or more registered professional land surveyors.

(2) Experience shall be obtained in the area of boundary surveying and boundary determination only.

(3) Experience to be counted toward registration shall be counted from the date the applicant passes the National Council of Examiners for Engineering and Surveying (NCEES) fundamentals of land surveying examination.

(4) The required experience is divided into two types of experience, which are as follows:

(A) Office experience. The required office experience will consist of a minimum of three months of acceptable experience within each of the following categories, herein referred to as "acceptable office experience" for a minimum of one year:

(i) Research of county records and records search;

(ii) Legal principles, boundary reconciliation, and deed sketches;

(iii) Computations/traverse accuracy analysis; and

(iv) Documentation/description/monumentation/preparation of final surveys. All two years of the experience requirement may be obtained as office experience.

(B) Field experience. The remaining acceptable experience, if not within the previously listed office experience categories, must be within the categories following:

(i) Field accuracies and tolerances;

(ii) Field traverse notes; and

(iii) Monument search based on deed sketches.

(c) In the review of surveying experience, the board may consider additional elements including:

(1) whether the experience was sufficiently complex and diverse, and of an increasing standard of quality and responsibility;

(2) whether the quality of the surveying work shows minimum technical competency;

(3) whether the experience was gained in accordance with the provisions of the Surveying Act and board rules;

(4) whether non-traditional surveying experience such as sales or military service provides sufficient depth of practice;

(5) whether short engagements have had an impact upon professional growth;

(6) whether the applicant intends to practice or offer surveying services in Texas; or

(7) whether the experience was supplemented by training courses or participation in surveying organizations or societies that contribute to the applicant's competence and readiness for registration.

(d) Surveying experience may be considered satisfactory for the purpose of registration provided that:

(1) the experience is gained during an engagement longer than three months in duration;

(2) the experience, when taken as a whole, meets the minimum time;

(3) the experience is not anticipated and has actually been gained at the time of application; and

(4) the time granted for the experience claimed does not exceed the calendar time available for the periods of employment claimed, and the calendar time has not been claimed as engineering experience in an engineering licensure application.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 28, 2024.

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Lance Kinney, Ph.D., P.E.
Executive Director
Texas Board of Professional Engineers and Land Surveyors
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For further information, please call: (512) 440-7723

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SUBCHAPTER F. REFERENCE DOCUMENTATION

22 TAC §134.53

STATUTORY AUTHORITY

The amended rules are proposed pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state.

No other codes, articles, or statutes are affected by this proposal.

§134.53. Reference Statements.

(a) The applicant shall make available to each reference provider, the board's reference statement form and a complete copy of the applicable portion(s) of the supplementary experience record.

(b) Persons providing reference statements verifying an applicant's land surveying experience shall:

(1) complete and sign the reference statement in a format prescribed by the board; and

(2) review, evaluate, and sign all applicable portions of the supplementary experience record(s). The reference provider's signature indicates that he has read the supplementary experience record(s), that the record(s) are correct to the best of his knowledge, and that the experience is relevant to registration. If the reference provider disagrees with or has comments or clarification to the information provided by the applicant, the reference provider should submit written comments or concerns to the board.

(3) For the purposes of this section, a reference statement and associated portions of the applicant's supplementary experience record submitted directly to the board through a secure method prescribed by the board will be considered "signed" as required in this subsection.

(c) The reference provider shall submit to the board both the reference statement and the supplementary experience record.

(d) For any reference statement to meet the requirements of the board, the reference statement must be securely submitted in a manner acceptable to the board [secured]. Any tampering of the reference statements by the applicant could result in denial of the application. [For a reference statement to be considered secure, the reference provider shall:]

[(1) place the completed reference statement and reviewed supplementary experience records in an envelope;]

[(2) secure the flap of the envelope to prevent tampering; and]

[(3) the reference provider shall return the sealed envelope to the applicant or transmit the documents directly to the board.]

(e) Secured reference envelopes shall be submitted to the board by applicant or reference provider.

(f) Reference documents submitted directly to the board by the reference provider in a method prescribed by the board will meet the requirements of subsection (d) of this section.

(g) Evidence of retaliation by an applicant against a person who provides reference material for an application may be considered in the application process as described in §134.81 of this chapter (relating to Receipt of Applications).

(h) The NCEES record reference documentation may be accepted in lieu of reference statements as specified in this section.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 28, 2024.

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Lance Kinney, Ph.D., P.E.
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Texas Board of Professional Engineers and Land Surveyors
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For further information, please call: (512) 440-7723

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SUBCHAPTER G. EXAMINATIONS

22 TAC §134.67, §134.68

STATUTORY AUTHORITY

The amended rules are proposed pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state.

No other codes, articles, or statutes are affected by this proposal.

§134.67. Examination on the Principles and Practice of Surveying.

(a) General Exam Provisions.

(1) To meet the examination requirements set forth in §1071.256 of the Surveying Act an applicant must pass both the NCEES Principles and Practice of Surveying examination (PS Exam) and the Texas Specific Surveying Examination (TSSE).

(2) The PS exam and TSSE are open only to applicants who have received board approval to take the exams and Texas registered professional land surveyors who wish to take the exams for record purposes.

(3) An applicant approved to take the PS exam and TSSE:

(A) shall be advised of the date he or she is eligible; and [.]

(B) shall be solely responsible for timely scheduling for the examinations and any payment of examination fees.

(4) For the purposes of this section, exam attempt means a unique administration of an examination for which attendance is documented.

[(5) An applicant who does not pass the PS exam or the TSSE within the approved examination period described in subsections (b) or (c) of this section is considered not approved and may not re-apply for approval until he or she has obtained at least one (1) year of additional surveying experience as described in Subchapter E of this chapter (relating to Experience) or until the applicant has completed at least six (6) additional semester hours of formal college level classroom courses relevant to land surveying. The time period to obtain additional surveying experience or enroll in additional college courses commences on the date of the last exam attempt. Applicants meeting the additional experience or education requirements must apply in accordance with §134.21 of this chapter (relating to Application for Standard License) and receive approval for additional exam attempts.]

(5) [(6)] If the applicant has not attempted to take the TSSE [neither exam] within the approved examination period described in subsection [subsections (b) or] (c) of this section, the applicant may re-apply to take the exam [exams] after the prior approved examination period has expired under §134.21 of this chapter (relating to Application for Standard License) and may receive approval for additional exam attempts.

(6) [(7)] The PS exam and TSSE shall be constructed according to §1071.256 of the Surveying Act. The examinations shall be written and designed to aid the Board in determining the applicant's knowledge of land surveying, mathematics, land surveying laws, and the applicant's general fitness to practice the profession as outlined in the Surveying Act.

(b) Principles and Practice of Surveying Exam.

(1) The board shall utilize the PS Exam developed and administered by NCEES to meet this requirement.

(2) The PS exam shall be offered according to the schedule determined by [the] NCEES.

(3) An applicant who has passed the PS exam will not be required to re-take the examination.

(4) Applicants who are granted certification as a Surveyor-in-Training in accordance with §134.1 of this chapter (relating to Surveyor-in-Training Designation) are approved to take the PS exam.

(5) Applicants who have been approved for examinations per §134.87 of this chapter (relating to Final Actions on Applications) are approved to take the PS exam.

[(6) An applicant approved to take the PS exam shall be allowed not more than three examination attempts and those attempts must be completed within a four-year period starting with the date of the notification for approval to take the exam. No extensions of time shall be granted except as provided for in §134.61(i) of this chapter (relating to Surveying Examinations Required for a License to Practice as a Professional Surveyor).]

(c) Texas Specific Surveying Examination (TSSE).

(1) The TSSE shall be developed by the board to supplement the NCEES PS Exam and cover any topic areas specific to the professional practice of land surveying in Texas that are not covered by the NCEES PS exam. The TSSE shall not exceed four hours in duration.

(2) The TSSE shall be offered according to a schedule and at a location determined by the board.

(3) An applicant who has passed the TSSE will not be required to re-take the examination.

(4) Applicants who have been approved for examinations per §134.87 of this chapter [~~(relating to Final Actions on Applications)~~] are approved to take the TSSE.

(5) An applicant approved to take the TSSE shall be allowed not more than three examination attempts and those attempts must be completed within a four-year period starting with the date of the notification for approval to take the exam. No extensions of time shall be granted except as provided for in §134.61(i) of this chapter (relating to Surveying Examinations Required for a License to Practice as a Professional Surveyor).

(6) An applicant who does not pass the TSSE within the approved examination period described in paragraph (5) of this subsection is considered not approved and may not re-apply for approval until he or she has obtained at least one (1) year of additional surveying experience as described in Subchapter E of this chapter (relating to Experience) or until the applicant has completed at least six (6) additional semester hours of formal college level classroom courses relevant to land surveying. The time period to obtain additional surveying experience or enroll in additional college courses commences on the date of the last TSSE exam attempt. Applicants meeting the additional experience or education requirements must apply in accordance with §134.21 of this chapter and receive approval for additional exam attempts.

(7) TSSE Exam fees shall be waived for qualifying military service members, military veterans, and military spouses in accordance with Texas Occupations Code Chapter 55.

§134.68. Licensed State Land Surveyor Examination.

(a) The licensed state land surveyor examination is open only to applicants who have received board approval to take it.

(b) An applicant approved to take the licensed state land surveyor examination:

(1) shall be advised of the date he or she is eligible; and

(2) shall be solely responsible for timely scheduling for the examination and any payment of examination fees.

(c) For the purposes of this section, exam attempt means a unique administration of an examination for which attendance is documented.

(d) The licensed state land surveyor examination shall be offered according to the schedule determined by the board.

(e) The licensed state land surveyor examination shall be constructed according to §1071.256 of the Surveying Act. The exam shall be written and so designed to test the applicant's knowledge of the history, files, and functions of the General Land Office, survey construction, legal aspects pertaining to state interest in vacancies, excesses, and unpatented lands, and familiarity with other state interests in surface and subsurface rights as covered by existing law.

(f) The licensed state land surveyor examination consists of two four-hour sections and each part graded independently. An applicant is required to pass both sections of the examination in the same exam attempt. If an applicant does not pass both parts, the exam is not passed and the examinee may register for and attempt the examination again.

(g) The board shall develop an examination to meet the requirements of this section (relating to [~~the~~] Licensed State Land Surveyor Examination [~~licensed state land surveying examination~~]).

(h) The licensed state land surveyor examination fee shall be waived for qualifying military service members, military veterans, and military spouses in accordance with Texas Occupations Code Chapter 55.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 28, 2024.

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Lance Kinney, Ph.D., P.E.
Executive Director
Texas Board of Professional Engineers and Land Surveyors
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For further information, please call: (512) 440-7723

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 13. TEXAS COMMISSION ON FIRE PROTECTION

CHAPTER 469. TECHNICAL RESCUE

The Texas Commission on Fire Protection (the Commission) proposes a new chapter, 37 Texas Administrative Code Chapter 469, Technical Rescue, concerning §469.1 Rope Rescue Awareness Level/Operations Level Certification, §469.3 Minimum Standards for Rope Rescue Awareness Level/Operations Level, §469.5 Examination Requirement, §469.201 Rope Rescue Technician Level, §469.203 Minimum Standards for Rope Rescue Technician Level Certification, and §469.205 Examination Requirements.

BACKGROUND AND PURPOSE

The proposed new chapter aims to establish rules concerning standards for rope rescues at the awareness/operations level and the technician level. It defines the definition of each level, the minimum standards, and the examination requirements for certification.

FISCAL NOTE IMPACT ON STATE AND LOCAL GOVERNMENT

Michael Wisko, Agency Chief, has determined that for each year of the first five-year period, the proposed new chapter is in effect, there will be no significant fiscal impact to state government or local governments because of enforcing or administering these new rules as proposed under Texas Government Code §2001.024(a)(4).

PUBLIC BENEFIT AND COST NOTE

Mr. Wisko has also determined under Texas Government Code §2001.024(a)(5) that for each year of the first five years the pro-

posed new chapter is in effect, the public benefit will be accurate, clear, and concise rules.

LOCAL ECONOMY IMPACT STATEMENT

There is no anticipated effect on the local economy for the first five years that the proposed new chapter is in effect; therefore, no local employment impact statement is required under Texas Government Code §2001.022 and 2001.024(a)(6).

ECONOMIC IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

Mr. Wisko has determined there will be no impact on rural communities, small businesses, or micro-businesses as a result of implementing the proposed new chapter. Therefore, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

The agency has determined under Texas Government Code §2006.0221 that during the first five years the proposed new chapter is in effect:

(1) the rules will not create or eliminate a government program;

(2) the rules will not create or eliminate any existing employee positions;

(3) the rules will not require an increase or decrease in future legislative appropriation;

(4) the rules will not result in a decrease in fees paid to the agency;

(5) the rules will not create a new regulation;

(6) the rules will not expand a regulation;

(7) the rules will not increase the number of individuals subject to the rule; and

(8) the rules are not anticipated to have an adverse impact on the state's economy.

TAKINGS IMPACT ASSESSMENT

The Commission has determined that no private real property interests are affected by this proposal and this proposal does not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Texas Government Code §2007.043.

COSTS TO REGULATED PERSONS

The proposed new chapter does not impose a cost on regulated persons, including another state agency, a special district, or a local government, and, therefore, are not subject to Texas Government Code §2001.0045.

ENVIRONMENTAL IMPACT STATEMENT

The Commission has determined that the proposed new chapter does not require an environmental impact analysis because the new rules are not major environmental rules under Texas Government Code §2001.0225.

REQUEST FOR PUBLIC COMMENT

Comments regarding the proposed new chapter may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register,* to Michael Wisko, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768, or e-mailed to frank.king@tcfp.texas.gov.

SUBCHAPTER A. MINIMUM STANDARDS FOR ROPE RESCUE AWARENESS AND OPERATIONS

37 TAC §§469.1, 469.3, 469.5

STATUTORY AUTHORITY

The new chapter is proposed under Texas Government Code §419.008(f), which provides the Commission may appoint an advisory committee to assist it in the performance of its duties, and under Texas Government Code §419.008(a), which provides the Commission may adopt rules for the administration of its powers and duties. Additionally, §463.7, Terms, is proposed pursuant to Texas Government Code §419.008(f), which provides members appointed under chapter 419 shall serve six-year staggered terms but may not be appointed to more than two consecutive terms.

CROSS-REFERENCE TO STATUTE

No other statutes, articles, or codes are affected by these new rules.

§469.1. Rope Rescue Awareness Level/Operations Level Certification.

(a) A Rope Rescue Awareness Level/Operations Level Rescuer is an individual who has met the requirements of Chapters 5.1 and 5.2 of NFPA 1006, Standard for Technical Rescue Personnel Professional Qualifications and has the knowledge, skills, and ability to perform Rope Rescue at the Awareness Level/Operations Level.

(b) All individuals holding a Rope Rescue Awareness Level/Operations Level certification shall be required to comply with the continuing education requirements in Chapter 441 of this title (relating to Continuing Education).

(c) Special temporary provision. Individuals are eligible to take the commission examination for Rope Rescue Awareness Level/Operations Level by:

(1) holding as a minimum, Structural Fire Protection Personnel, Aircraft Rescue Fire Fighting Personnel, or Marine Fire Protection Personnel through the Commission; and

(2) providing documentation acceptable to the Commission, in the form of an affidavit from the individual's Head of Department or Chief Training Officer, that the individual has met the department's requirements to perform as a Rope Rescuer and has demonstrated proficiency as a Rope Rescuer at the Rope Rescue Awareness Level/Operations Level.

(d) All applications for testing during the special temporary provision period must be received no earlier than October 1, 2024, and no later than October 1, 2025.

(e) This special temporary provision will expire on November 1, 2025.

§469.3. Minimum Standards for Rope Rescue Awareness Level/Operations Level Certification.

To be certified to the Rope Rescue Awareness Level/Operations Level, an individual must:

(1) hold certification as Structural Fire Protection Personnel, Aircraft Rescue Fire Fighting Personnel, or Marine Fire Protection Personnel; and

(2) complete a Commission-approved Rope Rescue Awareness Level/Operations Level program and successfully pass the Commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Rope Rescue Awareness Level/Operations Level program must consist of one of the following:

(A) completion of an in-state Rope Rescue Awareness Level/Operations Level program meeting the requirements of the applicable NFPA standard and conducted by a Commission-certified training provider that was submitted and approved through the Commission's training prior approval system; or

(B) completion of an out-of-state educational institution of higher education, and/or military training program that has been submitted to the Commission for evaluation and found to meet the requirements of the applicable NFPA standard.

§469.5. Examination Requirement.

Examination requirements in Chapter 439 of this title (relating to Examinations for Certification) must be met to receive Rope Rescue Awareness Level/Operations Level certification.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Frank King
General Counsel
Texas Commission on Fire Protection
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SUBCHAPTER B. MINIMUM STANDARDS FOR ROPE RESCUE TECHNICIAN

37 TAC §§469.201, 469.203, 469.205

STATUTORY AUTHORITY

The new chapter is proposed under Texas Government Code §419.008, which provides the Commission the authority to propose rules for the administration of its powers and duties, and may appoint advisory committeesto assist the Commission in the performance of its duties.

CROSS-REFERENCE TO STATUTE

No other statutes, articles, or codes are affected by these new rules.

§469.201. Rope Rescue Technician Level.

(a) A Rope Rescue Technician Level Rescuer is an individual who has met the requirements of Chapter 5.3 of NFPA 1006, Standard for Technical Rescue Personnel Professional Qualifications, and has the knowledge, skills, and ability to perform Rope Rescue at the Technician Level.

(b) All individuals holding a Rope Rescue Technician Level certification shall be required to comply with the continuing education requirements in Chapter 441 of this title (relating to Continuing Education).

(c) Special temporary provision. Individuals are eligible to take the Commission examinations for the Rope Rescue Technician Level by:

(1) holding as a minimum, Structural Fire Protection Personnel, Aircraft Rescue Fire Fighting Personnel, or Marine Fire Protection Personnel through the Commission; and

(2) providing documentation acceptable to the commission, in the form of an affidavit from the individual's Head of Department or Chief Training Officer, that the individual has met the department's requirements to perform as a Rope Rescuer and has demonstrated proficiency as a Rope Rescuer at the Rope Rescue Technician Level.

(d) All applications for testing during the special temporary provision period must be received no earlier than October 1, 2024, and no later than October 1, 2025.

(e) This temporary provision will expire on November 1, 2025.

§469.203. Minimum Standards for Rope Rescue Technician Level Certification.

To be certified at the Rope Rescue Technician Level, an individual must:

(1) Option 1--hold certification as Structural Fire Protection Personnel, Aircraft Rescue Fire Fighting Personnel, or Marine Fire Protection Personnel; and

(A) hold a Rope Rescue Awareness Level/Operations Level certification through the commission; and

(B) complete a commission-approved Rope Rescue Technician Level program and successfully pass the commission examination for Rope Rescue Technician as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Rope Rescue Technician Level program must consist of one of the following:

(ii) completion of an in-state Rope Rescue Technician Level program meeting the requirements of the applicable NFPA standard and conducted by a Commission-certified training provider that was submitted and approved through the Commission's training prior approval system; or

(ii) successful completion of an out-of-state educational institution of higher education, and/or military training program that has been submitted to the commission for evaluation and found to meet the requirements of the applicable NFPA standard.

(2) Option 2--hold certification as Structural Fire Protection Personnel, Aircraft Rescue Fire Fighting Personnel, or Marine Fire Protection Personnel; and

(A) complete a Commission-approved Rope Rescue Awareness Level/Operations Level program. An approved Rope Rescue Awareness Level/Operations Level program must consist of one of the following:

(i) completion of an in-state Rope Rescue Awareness Level/Operations Level program meeting the requirements of the applicable NFPA standard and conducted by a Commission-certified training provider that was submitted and approved through the Commission's training prior approval system; or

(ii) successful completion of an out-of-state educational institution of higher education, and/or military training program that has been submitted to the Commission for evaluation and found to meet the requirements of the applicable NFPA standard; and

(B) complete a commission-approved Rope Rescue Technician Level program. An approved Rope Rescue Technician Level program must consist of one of the following:

(i) completion of an in-state Rope Rescue Technician Level program meeting the requirements of the applicable NFPA standard and conducted by a Commission-certified training provider that was submitted and approved through the Commission's training prior approval system; or

(ii) completion of an out-of-state educational institution of higher education, and/or military training program that has been submitted to the Commission for evaluation and found to meet the requirements of the applicable NFPA standard; and

(C) successfully pass the Commission examinations for the Rope Rescue Technician Level as specified in Chapter 439 of this title (relating to Examinations for Certification).

§469.205. Examination Requirement.

Examination requirements in Chapter 439 of this title (relating to Examinations for Certification) must be met to receive Rope Rescue Technician Level certification.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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TITLE 43. TRANSPORTATION

PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 6. STATE INFRASTRUCTURE BANK

The Texas Department of Transportation (department) proposes the amendments to §§6.2 - 6.4, 6.12, 6.23, 6.32, 6.41 - 6.43, and 6.45, concerning the state infrastructure bank.

EXPLANATION OF PROPOSED AMENDMENTS

Amendments to §§6.2 - 6.4, 6.12, 6.23, 6.32, 6.41 - 6.43, and 6.45, provide conforming changes to Texas Transportation Code, Chapter 222, Subchapter D, clean up outdated provisions, clarify the intent of multiple sections of Chapter 6, and provide efficiencies for the department and borrowers from the state infrastructure bank (SIB).

Amendments to §6.2, Definitions, delete the reference to "Environmental Affairs Divisions Operations and Procedures Manual" in §6.2(5)(B) because the manual is not used for these rules and delete the definition of "Interoperability" as it is used in the rules.

Amendments to §6.3, General Policies, include amend subsection (f) to allow a borrower to request reimbursement of eligible project costs if incurred not more than 12 months prior to the execution of the financial assistance agreement evidencing the financial assistance. Costs are required to be approved by the department and funds will not be disbursed until the financial assistance agreement has been executed by both parties.

Amendments to §6.4, Separate Subaccounts, clean up subsection (b) to indicate that the highway and transit subaccounts "may be capitalized" with state and federal funds instead of "is capitalized" with state and federal funds. Currently the transit account is not funded.

Amendments to §6.12, Eligible Projects, modify an eligible project for which secondary funds may be used to "a project eligible for assistance under Title 23 or Title 49, USC." This language aligns with Texas Transportation Code, §222.071(5).

Amendments to §6.23, Application Procedure, removes part of subsection (b)(3)(A) and removes subsections (b)(3)(B-C), which require the applicant to submit information about the consistency of the project with certain statewide plans as well as identify the environmental impacts of the project. The amendments are made to conform with the changes made in §6.32(c),and §6.32(d) along with other provisions that require environmental reviews be completed before execution of a SIB agreement.

Amendments to §6.32, Commission Action, make various changes to the rules related to commission actions concerning financial assistance from the SIB. Changes to subsection (b)(2) add "financial condition of the bank" as a consideration for the Commission when determining whether to waive preliminary approval of a loan. Additionally, the changes make the commission's consideration of the listed factors permissive.

Changes to subsection (c) allow the executive director of the department to suspend the deadlines for applications that need to be considered for preliminary approval. Currently, the preliminary approval process is not needed and the rules do not allow for the deadlines to be suspended. The changes provide the executive director flexibility when available SIB funds are sufficient to cover all requests. Additionally, paragraph (1)(D) is removed to conform with the changes in §6.32(d).

In subsection (d), changes are made to require that SIB loans will conform to the environmental requirements outlined in Chapter 2 of Title 43 of the Texas Administrative Code (relating to Environmental Review of Transportation Projects), if the project meets the applicability thresholds in 43 TAC §2.3. Changes further indicates that any required environmental review must be completed before construction begins, excluding construction activities in Title 23, United States Code, §101(a)(4)(A) and that the applicant will be responsible for the environmental review unless the department agrees otherwise. This change is meant to allow for SIB loans to be used for preliminary project activities defined in Title 23, United States Code, which include preliminary engineering, engineering, and design-related services directly relating to the construction of a highway project, including engineering, design, project development and management, construction project management and inspection, surveying, assessing resilience, mapping (including the establishment of temporary and permanent geodetic control in accordance with specifications of the National Oceanic and Atmospheric Administration), and architectural-related services. This change is also part of other changes that will require environmental reviews to be completed before execution of the agreement; these changes will create efficiencies in the process.

Amendments to subsection (c)(2) remove the requirement of project consistency with certain statewide planning documents.

Deleting this requirement will remove a burden for projects that is not required in statute. Statute only requires inclusion in the MPO plan.

Amendments to subsection (e) remove references to the environmental impacts of a project to conform to the change in §6.32(d).

Changes to subsection (g) remove the examples of the types of actions that the commission may require an applicant to take to receive financial assistance from the SIB to clarify that "further actions" are not limited to the listed examples.

Amendments to §6.41, Financial Assistance Agreements, provide that funds will not be disbursed for construction, excluding activities in Title 23, United States Code, §101(a)(4)(A), until an environmental review under Chapter 2 is complete, if required. This change aligns with TxDOT's environmental review standards to require an environmental review for construction and right of way activities while not requiring a completed study for preliminary engineering and design related activities. This will allow communities to use the SIB for these activities.

Additional changes to the section clarify that the repayment of financial assistance provided from the SIB will begin within 18 months of the date of initial funds disbursement rather than "on the earliest reasonable date consistent with applicable federal and state law, rules, and regulations." The rules allow the commission to defer the initial repayment but was not clear when that approval was needed. This change will remove the ambiguity of when approval is needed for a payment deferral.

Amendments to §6.42, Performance of Work, repeal the requirement that the department will set aside funds internally for the borrower when the department provides work on project on behalf of the applicant. The department has chosen not to do this practice and this repeal aligns the rules with the department's practice. The amendments move subsections (b)(2), (3), and (5) to §6.45, Financial and Credit Requirements, and amend existing §6.45(b)(4), which is redesignated as subsection (b)(2), to remove the different requirements based on the size of the loan. These amendments standardize the financial requirements (annual budget and audit) for all loans and borrowers.

Amendments to §6.43, Design, Construction, and Procurement Standards, remove federal-aid projects from the design requirements and instead differentiate the standards between projects on the state highway system and off the state highway system. As amended, subsection (a) is applicable to projects on the state highway system and will continue to adhere to department design standards, while new subsection (b) requires projects not on the state highway system to conform to American Association of State Highway and Transportation Officials (AASHTO) design standards. This changes align the rules with recognized department practices.

Amendments to §6.45, Financial and Credit Requirements, are explained under the explanation for the amendments to §6.43, Design, Construction, and Procurement Standards.

FISCAL NOTE

Stephen Stewart, Chief Financial Officer, has determined, in accordance with Government Code, §2001.024(a)(4), that for each of the first five years in which the proposed rules are in effect, there will be no fiscal implications for state or local governments as a result of the department's or commission's enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Benjamin Asher, Division Director, Project Finance, Debt, & Strategic Contracts, has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rules and therefore, a local employment impact statement is not required under Government Code, §2001.022.

PUBLIC BENEFIT

Benjamin Asher has determined, as required by Government Code, §2001.024(a)(5), that for each year of the first five years in which the proposed rules are in effect, the public benefit anticipated as a result of enforcing or administering the rules will be increased efficiencies for the department and local governments in using the program.

COSTS ON REGULATED PERSONS

Benjamin Asher has also determined, as required by Government Code, §2001.024(a)(5), that for each year of that period there are no anticipated economic costs for persons, including a state agency, special district, or local government, required to comply with the proposed rules and therefore, Government Code, §2001.0045, does not apply to this rulemaking.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities, as defined by Government Code, §2006.001, and therefore, an economic impact statement and regulatory flexibility analysis are not required under Government Code, §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

Benjamin Asher has considered the requirements of Government Code, §2001.0221 and anticipates that the proposed rules will have no effect on government growth. He expects that during the first five years that the rule would be in effect:

(1) it would not create or eliminate a government program;

(2) its implementation would not require the creation of new employee positions or the elimination of existing employee positions;

(3) its implementation would not require an increase or decrease in future legislative appropriations to the agency;

(4) it would not require an increase or decrease in fees paid to the agency;

(5) it would not create a new regulation;

(6) it would expand, limit, or repeal an existing regulation;

(7) it would not increase or decrease the number of individuals subject to its applicability; and

(8) it would not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

Benjamin Asher has determined that a written takings impact assessment is not required under Government Code, §2007.043.

SUBMITTAL OF COMMENTS

Written comments on the amendments §§6.2-6.4, 6.12, 6.23, 6.32, 6.41-6.43, and 6.45, may be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleCom-

ments@txdot.gov with the subject line *"State Infrastructure Bank Rules".* The deadline for receipt of comments is 5:00 p.m. on August 12, 2024. In accordance with Transportation Code, §201.811(a)(5), a person who submits comments must disclose, in writing with the comments, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §§6.2 - 6.4

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §222.077, which authorizes the commission to adopt rules to implement Transportation Code, Chapter 222, Subchapter D relating to the state infrastructure bank.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 222, Subchapter D.

§6.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Bank--The state infrastructure bank account in the state highway fund.

(2) Commission--The Texas Transportation Commission.

(3) Construction--A term as defined by Title 23, United States Code, §101, and which includes preliminary studies required to determine the feasibility of an eligible project.

(4) Department--The Texas Department of Transportation.

(5) Design manual--The latest editions of and successors to all design manuals available from the department, including the:

(A) Roadway Design Manual;

~~[(B) Environmental Affairs Division Operations and Procedures Manual;]~~

(B) [~~(C)~~] Pavement Design Manual;

(C) [~~(D)~~] Bridge Design Manual;

(D) [~~(E)~~] Bridge Project Development Manual;

(E) [~~(F)~~] Bridge Geotechnical Manual;

(F) [~~(G)~~] Hydraulic Design Manual;

(G) [~~(H)~~] Texas Manual on Uniform Traffic Control Devices;

(H) [~~(I)~~] Project Development Process Manual;

(I) [~~(J)~~] Standard Highway Sign Designs for Texas; and

(J) [~~(K)~~] Traffic Control Standard Sheets booklet of the traffic operations division.

(6) Environmental Permits, Issues, and Commitments (EPIC)--Any permit, issue, coordination, commitment, or mitigation obtained to satisfy social, economic, or environmental impacts of a project, including sole source aquifer coordination, wetland permits, stormwater permits, traffic noise abatement, threatened or endangered species coordination, archeological permits, and any mitigation or other commitment associated with any of those issues.

~~[(7) Interoperability--The ability of transponders used or to be used by an applicant to be read and properly processed by the transponder technology used by the department and other governmental and private entities operating toll facilities in this state, and the ability of the transponder technology used or to be used by an applicant to read and properly process information transmitted by transponders used by the department and other governmental and private entities operating toll facilities in this state.]~~

(7) [~~(8)~~] Executive director--The executive director of the Texas Department of Transportation, or his or her designee.

(8) [~~(9)~~] Expected financing period--The time taken to fully pay any and all liabilities incurred to finance an eligible project, including any period during which payments are deferred and all extensions of time through refunding or restructuring.

(9) [~~(10)~~] Federal Act--Section 350 of the National Highway System Designation Act of 1995 (Public Law Number 104-59) and all rules and regulations adopted under the Act.

(10) [~~(11)~~] Federal-aid highway--A term as defined in Title 23, United States Code, §101.

(11) [~~(12)~~] Financial assistance--A term which may include, as applicable:

(A) extending credit by direct loan;

(B) providing credit enhancements;

(C) serving as a capital reserve for bond or debt instrument funding;

(D) subsidizing interest rates;

(E) insuring the issuance of a letter of credit or credit instrument;

(F) financing a purchase or lease agreement in connection with a transit project;

(G) providing security for bonds and other debt instruments; or

(H) providing methods of leveraging money that have been approved by the United States Secretary of Transportation and which relate to the project for which the assistance is provided.

(12) [~~(13)~~] Investment grade rating--Creditworthiness sufficient to qualify a debt as eligible for commercial bank investment under regulations issued by the Comptroller of the Currency. For bonds, these debts are limited to ratings of "AAA," "AA," "A," and "BBB" by Standard and Poor's Rating Services or corresponding ratings used by other rating services.

(13) [~~(14)~~] Metropolitan planning organization (MPO)--An organization designated in certain urbanized areas to carry out the transportation planning process as required by Title 23, United States Code, §134.

(14) [~~(15)~~] Secondary Funds--A term which includes:

(A) the repayment, with funds other than federal funds, of a loan, including interest, principal, fees, or charges, or other assistance that is provided with money deposited to the credit of the bank; and

(B) the investment income generated by secondary funds deposited to the credit of the bank.

(15) [~~(16)~~] State Act--Transportation Code, Chapter 222, Subchapter D, §222.071 et.seq., relating to a State Infrastructure Bank.

(16) [~~(17)~~] Transit project--Capital expenditures eligible for funding under Title 49, United States Code, §§5307, 5309, and 5311.

§6.3. General Policies.

(a) All actions of the bank will be in accordance with applicable federal and state law, and applicable rules and regulations.

(b) Grant financing will not be considered.

(c) The commission will ensure that the bank maintains on a continuing basis an investment grade rating on its debt issuances or has a sufficient level of bond or debt financing instrument insurance to maintain the viability of the bank.

(d) The Federal Highway Administration, the Federal Transit Administration, and the Comptroller General of the United States, each if applicable, and the Texas State Auditor's Office, and the department, or any of their authorized representatives, shall have the right of access to any books, documents, papers, or other records of the applicant which are pertinent to any agreement, in order to make audits, examinations, excerpts, and transcripts.

(e) Federal funds received by the state under the federal act, matching state funds in an amount required by that act, proceeds from bonds issued under the state act, secondary funds, other state funds deposited into the bank by order of the commission, and other money received by the state that is eligible for deposit in the bank, may be deposited into the bank.

(f) Financial assistance from the bank may [~~not~~] be used to reimburse eligible [~~pay for~~] project costs incurred before the execution of the financial assistance agreement evidencing the financial assistance provided that:

(1) a request for reimbursement of eligible project costs must be submitted to the department for review;

(2) eligible project costs approved for reimbursement will not be disbursed until after the financial assistance agreement evidencing the financial assistance is executed; and

(3) costs that were incurred more than 12 months prior to the date of execution of the financial assistance agreement evidencing the financial assistance are not eligible for reimbursement.

(g) If permissible under state and federal law, financial assistance from the bank may be used to pay for consultant costs, if any, incurred by the applicant in the preparation of the application for the financial assistance or preparation of the financial assistance agreement.

(h) [~~However, financial~~] Financial assistance from the bank may not be used to pay for costs incurred for an application that did not result in the disbursement of financial assistance to the applicant.

(i) [~~(g)~~] Applicants requesting financial assistance from the bank for a toll facility may also be required to comply with Chapter 27, Subchapter E of this title (relating to Financial Assistance for Toll Facilities). If a provision of Chapter 27, Subchapter E of this title conflicts with this chapter, this chapter controls to the extent of the conflict.

§6.4. Separate Subaccounts.

(a) The bank consists of the separate subaccounts specified in this section.

(b) The bank contains a highway subaccount and a transit subaccount, each of which may be [~~is~~] capitalized with federal funds or a combination of state and federal funds.

(c) The commission may create additional subaccounts capitalized with state funds only. Additional subaccounts capitalized with state funds only are not subject to the federal act.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER B. ELIGIBILITY

43 TAC §6.12

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §222.077, which authorizes the commission to adopt rules to implement Transportation Code, Chapter 222, Subchapter D relating to the state infrastructure bank.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 222, Subchapter D.

§6.12. Eligible Projects.

(a) The following public or private projects are eligible for financial assistance:

(1) construction of a federal-aid highway, including required preliminary studies;

(2) a transit project, but only to the extent of funds in the bank that lawfully may be expended for a transit project; or

(3) for the expenditure of secondary funds, a [~~transit~~] project that [~~including a project eligible for assistance under Title 49, United States Code , §5310, or the planning, development, construction, maintenance, or operation of a public road, provided that:~~]

[~~(A)~~] [~~the project~~] is eligible for assistance under Title 23 or Title 49, United States Code.[~~;~~]

[~~(B) the department is authorized by state law to provide assistance for the project; and~~]

[~~(C) if the project is a transit project, financial assistance is limited to funds in the bank that lawfully may be expended for a transit project.~~]

(b) Financial assistance to a private entity shall be limited to an eligible project that:

(1) provides transportation services or facilities that provide a demonstrated public benefit; or

(2) is constructed or operated in cooperation with a state agency or political subdivision in accordance with an agreement between that state agency or political subdivision and a private entity.

(c) Financial assistance to a public or private entity shall be limited, as applicable, to an eligible project that is consistent with the transportation plan developed by the metropolitan planning organization.

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SUBCHAPTER C. PROCEDURES

43 TAC §6.23

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §222.077, which authorizes the commission to adopt rules to implement Transportation Code, Chapter 222, Subchapter D relating to the state infrastructure bank.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 222, Subchapter D.

§6.23. Application Procedure.

(a) Basic application. An eligible entity must submit an application to the executive director in a form prescribed by the department. The application must be accompanied by:

(1) an overview of the project, including a description of the project, the total estimated cost of the project, and the proposed use of the requested financial assistance;

(2) the amount of money required to supply the requested assistance, including any reserve funds that must be established and held by the bank for the applicant's benefit, but that may not be expended from the bank;

(3) any proposed pledge of collateral or security and any prior claim to those items;

(4) a description of the need for the project and its potential effect on traffic congestion and mobility;

(5) the most recent offering document for any outstanding debt of the applicant payable from the revenue proposed to be used to repay the financial assistance, along with the financial documents related to that debt, including any master and supplemental resolutions, indentures of trust, and authorizing resolutions, ordinances, or orders, unless previously provided, or if not applicable, other evidence of creditworthiness, provided that the entity may provide any of the information described by this paragraph electronically;

(6) official written approval of the project by the governing body of each entity that may become liable for repayment of any financial assistance;

(7) a binding commitment that the environmental consequences of the proposed project will be fully considered, and that the proposed project will comply with all applicable local, state, and federal environmental laws, regulations, and requirements;

(8) for public roadway projects, a preliminary design study, including:

(A) an initial route and potential alignments; and

(B) revisions or changes to state highway system facilities necessitated by the project; and

(9) for transit projects, a preliminary scope study, including preliminary layouts, architectural drawings, equipment specifications, and other information necessary to describe the project fully and to comply with all requirements of the Federal Transit Administration.

(b) Supplemental information and data. Except as provided in subsection (c) of this section, the applicant shall submit the supplemental information and data required by this subsection.

(1) Financial feasibility study. The applicant shall submit a financial feasibility study that includes:

(A) a project construction or asset acquisition schedule identifying the timing, amount, and source of all funds required;

(B) an analysis of the expected financing period of the project;

(C) a pro forma annual cash flow analysis for the expected financing period of the project showing:

(i) anticipated revenues to be used in repayment by source, including a preliminary traffic and revenue study, acceptable to the executive director, for toll roads;

(ii) anticipated disbursements for preliminary studies and engineering, construction, EPIC, right of way acquisition, utility adjustments, operations, and maintenance;

(iii) funds used to meet the requirements of any sinking funds, reserve funds, and amortization payments; and

(iv) loan (debt service) coverage ratios and associated cash flow surpluses or deficits;

(D) a description of the methods used in preparing the financial feasibility study, the assumptions contained in the study, and persons responsible for the preparation of the study;

(E) the length of time the amounts will be outstanding or obligated;

(F) the anticipated interest rates applicable during the term of the financial assistance;

(G) any interest rate subsidies requested by:

(i) an economically disadvantaged county, as defined in Transportation Code, §222.053;

(ii) a city located wholly or partially within an economically disadvantaged county; or

(iii) another public entity within whose boundary is at least one entire disadvantaged county;

(H) the expected savings to the applicant resulting from the assistance; and

(I) a description of how the requested assistance will:

(i) expand the availability of funding for transportation projects;

(ii) reduce direct state costs;

(iii) maximize private and local participation in financing projects;

(iv) improve the efficiency of the state's transportation systems; and

(v) accelerate the project's transportation benefits over conventional financing methods.

(2) Other financial information. The applicant shall submit the following information, if the information is not provided with the feasibility study:

(A) the applicant's most recent annual budget;

(B) the five most recent comprehensive financial reports or audits of the applicant;

(C) the current capital planning document that addresses uses of the revenue proposed to be used for repayment of the financial assistance; and

(D) the most recent rating agency report on the credit of the applicant, if any.

(3) Project impacts. The applicant shall submit:

(A) information explaining how the project will be consistent [~~with the Statewide Transportation Plan and, if appropriate,~~] with the metropolitan transportation plan developed by an MPO, if appropriate; and

[~~(B) if the project is in a Clean Air Act non-attainment area, information explaining how the project will be consistent with the Statewide Transportation Improvement Program, with the conforming plan and Transportation Improvement Program for the MPO in which the project is located (if necessary), and with the State Implementation Plan;~~]

[~~(C) a preliminary identification of any known environmental, social, economic, or cultural resource issues, such as hazardous material sites, impacts on wetlands and other water resources, endangered species, parks, neighborhoods, businesses, historic buildings or bridges, and archeological sites; and~~]

(B) [~~(D)~~] an explanation of the status of obtaining an environmental approval under Chapter 2 of this title (relating to Environmental Review of Transportation Projects) and of obtaining any other required environmental permits.

(c) Waiver of required information or data. The executive director may waive submission of any individual item of information or data required by this section under either of the following circumstances:

(1) the information or data is not relevant to the project, applicant, or financial assistance requested (in determining the relevance of supplemental information and data, the executive director will consider the complexity and size of the project, the type of infrastructure or asset involved, the type and complexity of financial assistance requested, the complexity of the project's and the applicant's financial status, and how soon transportation benefits will begin); or

(2) the department already possesses information or data in a format that can be substituted for the required information or data.

(d) Requirement of additional information. The executive director may require the applicant to submit explanations and expansions of information or data required by this section. In determining when additional relevant explanations and expansions of information or data will be required, the executive director will consider the complexity and size of the project, the type of infrastructure or asset involved, the type, complexity, and amount of financial assistance requested, and the complexity of the project's and the applicant's financial status.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Texas Department of Transportation
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For further information, please call: (512) 463-8630

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SUBCHAPTER D. DEPARTMENT AND COMMISSION ACTION

43 TAC §6.32

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §222.077, which authorizes the commission to adopt rules to implement Transportation Code, Chapter 222, Subchapter D relating to the state infrastructure bank.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 222, Subchapter D.

§6.32. Commission Action.

(a) Commission analysis. The commission will consider all relevant information in the application together with the executive director's findings and recommendations.

(b) Consideration of applications for preliminary and final approval.

(1) Applications for financial assistance in the amount of $10 million or less will be considered by the commission for final approval without going through the preliminary approval process prescribed in subsection (c) of this section if the financial assistance is to be used for a project for which the department has primary responsibility, including for the payment of:

(A) local participation in a highway improvement project under Transportation Code, Chapter 222, Subchapter C, and Chapter 15, Subchapter E of this title; or

(B) the relocation of utilities necessary for a project under Transportation Code, Chapter 203, Subchapter E, and Chapter 21, Subchapter P of this title.

(2) Applications for financial assistance that are not subject to paragraph (1) of this subsection must be submitted to the commission for consideration for preliminary and final approval separately unless, for a particular application, the commission waives the preliminary approval requirement for that application. In determining whether to waive the preliminary approval requirement for an application, the commission may [~~will~~] consider the financial condition of the bank,

the complexity and size of the project, the type of infrastructure or asset involved, the type and complexity of the financial assistance requested, the financial status of the applicant, the financial feasibility of the project, and the need to expedite the financing of the project.

(3) Applications that are submitted to the commission for final approval without first being considered for preliminary approval must meet all the requirements and are subject to all the conditions applicable either to preliminary or final approval of financial assistance, except that the negotiation process under subsection (c)(3) of this section may be completed after final approval.

(c) Prioritization and preliminary approval. For applications that must be considered for preliminary approval, the executive director will establish deadlines for the submittal of complete applications in accordance with commission policies. The executive director may suspend a deadline if the executive director determines that the suspension is necessary. As soon as practicable after each application deadline, the executive director shall present all complete applications submitted by the deadline with the executive director's analysis of the application and the executive director's findings and recommendations, including recommendations on prioritizing the applications.

(1) Considerations. The executive director's analysis and recommendations to the commission must demonstrate the executive director's consideration of:

(A) whether the project is on the state highway system;

(B) the transportation need for and anticipated public benefit of the project;

(C) the present and projected financial condition of the bank;

[~~(D) potential social, economic, and environmental impacts and benefits of the project;~~]

(D) [~~(E)~~] conformity with the purposes of the bank;

(E) [~~(F)~~] evidence of local public support;

(F) [~~(G)~~] rapidity of loan repayment;

(G) [~~(H)~~] plan of finance;

(H) [~~(I)~~] comparison of the proposed financial assistance to other funding alternatives;

(I) [~~(J)~~] whether the project is on the department's 24-month letting schedule; and

(J) [~~(K)~~] any other relevant consideration.

(2) Project requirements. The commission may grant preliminary approval of an application for financial assistance from the bank if it finds that:

(A) the project is consistent [~~with the Statewide Long-Range Transportation Plan and, if appropriate,~~] with the metropolitan transportation plan developed by an MPO, if appropriate;

[~~(B) if the project is in a Clean Air Act non-attainment area, the project will be consistent with the Statewide Transportation Improvement Program, with the conforming plan and Transportation Improvement Program for the MPO in which the project is located (if necessary), and with the State Implementation Plan;~~]

(B) [~~(C)~~] the project will improve the efficiency of the state's transportation systems;

(C) [~~(D)~~] the project will expand the availability of funding for transportation projects or reduce direct state costs; and

(D) [~~(E)~~] the application shows that the project and the applicant are likely to have sufficient revenues to assure repayment of the financial assistance.

(3) Authorized actions. By granting preliminary approval, the commission authorizes the executive director to negotiate:

(A) the project's limits, scope, definition, design, and any other factors that may affect the financing of the project;

(B) the amount, type, and timing of disbursements of financial assistance;

(C) the interest rates, including subsidies;

(D) the fees;

(E) the charges;

(F) the repayment schedules;

(G) the term to maturity of any financial assistance;

(H) the collateral securing the financial assistance;

(I) the appropriate covenants applicable to the financial assistance;

(J) the default provisions; and

(K) all other provisions necessary to complete an agreement under Subchapter E of this chapter (relating to Financial Assistance Agreements).

(d) Environmental review [~~Social, economic, and environmental impact~~]. If Chapter 2 of this title applies to the project, as provided under §2.3 of this title (relating to Applicability; Exceptions), construction of the project, other than construction activities described in Title 23, United States Code, §101(a)(4)(A), may not begin before an environmental review under Chapter 2 is completed. The applicant will be responsible for providing any studies, documentation, and information needed to complete the environmental review unless the department agrees to provide those studies, documentation, and information.

[~~(1) Before final approval is granted under subsection (c) of this section, the department or the applicant must complete a study of the social, economic, and environmental impact of the project. The study must meet all requirements for a federal or state project as if the project had been undertaken directly by the department.~~]

[~~(2) For a project not on the state highway system, the applicant shall be responsible for completing required studies of social, economic, and environmental impacts, unless the applicant and the department agree otherwise. If the department agrees to be responsible for these studies, then any costs will be charged according to the department's local participation agreement.~~]

[~~(3) For a project on the state highway system, the department will be responsible for completing required studies of social, economic, and environmental impacts with any costs to be charged to the project.~~]

(e) Final approval. After preliminary approval under subsection (c) of this section, if required, and the completion of negotiations under subsection (c)(3) of this section unless excepted under subsection (b)(3) of this section, and the approval of the social, economic[~~, and environmental study required by subsection (d) of this section,~~] the commission may grant final approval if it determines that providing[~~:~~

[~~(1)~~] [~~Providing~~] financial assistance will protect the public's safety and prudently provide for the protection of public funds, while furthering the purposes of this chapter. [~~; and~~

[(2) The project will provide for all reasonable and feasible measures to avoid, minimize, or mitigate for adverse environmental impacts.]

(f) Postponement. The commission may postpone final approval if it finds that the current or projected financial condition of the bank warrants this action.

(g) Contingencies. The commission may make its preliminary or final approval contingent on further actions by the applicant [, including making changes in the application, levying taxes, and maintaining specified conditions necessary to assure repayment].

(h) Order of approval or disapproval. Approval or disapproval of financial assistance, whether preliminary or final, will be by written order of the commission and will include the rationale, findings, and conclusions on which approval or disapproval is based. Approval or disapproval will be in the sole discretion of the commission, and nothing in this subchapter is intended to require approval of any financial assistance.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER E. FINANCIAL ASSISTANCE AGREEMENTS

43 TAC §§6.41 - 6.43, 6.45

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §222.077, which authorizes the commission to adopt rules to implement Transportation Code, Chapter 222, Subchapter D relating to the state infrastructure bank.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 222, Subchapter D.

§6.41. Financial Assistance Agreements.

(a) Form of agreement. An agreement evidencing a loan or other financial assistance may be in the form of a contract or similar document, or may be in the form of a bond, note, or other obligation issued by the applicant.

(b) Negotiation of terms. The executive director will negotiate the terms of agreements deemed necessary to comply with any requirements of preliminary approval, to protect the public's safety, and to prudently provide for the protection of public funds while furthering the purposes of this chapter. These agreements shall include, but not be limited to, terms provided for in this subchapter, as applicable to a particular project.

(c) Disbursement of funds. If §6.32(d) of this chapter (relating to Commission Action) applies to construction of the project, funds will not be disbursed for that construction unless it is authorized to begin under that subsection.

(d) [(c)] Initial repayment date. Except as provided by this subsection [Unless the commission defers the beginning of repayment], repayment of any financial assistance from the bank will begin within 18 months after the date of the initial funding of the financial assistance [on the earliest reasonable date consistent with applicable federal and state law, rules, and regulations.] The [If approved by the] commission may defer[,] the initial repayment of financial assistance [may be deferred] to a [the date] specified date that is [by the commission, which may] not [be] later than the fifth anniversary of the date of the initial funding of the financial assistance. The term for repaying any financial assistance will not exceed 30 years after the date of the first scheduled payment.

(e) [(d)] Payment dates. Interest and principal shall be paid on the dates specified in the financial assistance agreement. If a date for payment is not a business day the payment shall be made on the next following business day.

(f) [(e)] Prepayments. Principal and interest may be prepaid without penalty on any date or dates as provided in the financial assistance agreement.

(g) [(f)] Assurances. The department will provide in a financial assistance agreement assurances that are reasonably and customarily required by the applicant and that are necessary for obtaining financing for, developing, or operating a particular project, if, in the department's reasonable judgment, the assurances are consistent with the agreement.

§6.42. Performance of Work.

(a) Work performed by the department. The department and the applicant may agree that the department will, consistent with state law, provide all or part of the work connected with the project in the department's normal course of business. For work performed by the department, the following provisions will apply.

(1) The department will account for all costs of the project in the normal course of business in accordance with applicable law.

[(2) The department will make progress payments or set aside funds from the bank on behalf of the applicant as the department deems necessary. Such actions shall bind the applicant to repayment according to the terms of the agreement(s). Interest shall accrue from the date of the payment or setting aside of funds.]

(2) [(3)] The department's actions and decisions regarding the project shall not be contestable by the applicant, except as expressly provided in the financial assistance agreement.

(3) [(4)] The applicant shall provide the department, and if applicable, the Federal Highway Administration, [and] the Federal Transit Administration, or their authorized representatives [as applicable], with right of entry or access to all properties or locations necessary to perform activities required to execute the work, inspect the work, or aid otherwise in the prompt pursuit of the work.

(b) Work performed by applicant. For work performed by the applicant, the following provisions apply.

(1) The applicant shall comply with applicable state and federal law, and with all terms and conditions of an applicable agreement. If approval or concurrence of the Federal Highway Administration, the Federal Transit Administration, or any other federal agency is required, the department may require that the applicant seek that approval or concurrence through the department.

[(2) The applicant shall maintain its books and records in accordance with generally accepted accounting principles in the United States, as promulgated by the Governmental Accounting Standards Board, the Financial Accounting Standards Board, or pursuant to applicable federal or state laws or regulations, and with all other applicable federal and state requirements, subject to any exceptions required by existing bond indentures of the applicant that are applicable to the project, and any exceptions the applicant has historically implemented that have been acceptable to the public debt markets.]

[(3) For loans of more than $1 million, the applicant shall, at the applicant's cost, have a full audit of its books and records performed annually by an independent certified public accountant selected by the applicant and reasonably acceptable to the department. The audit must be conducted in accordance with generally accepted auditing standards promulgated by the Financial Accounting Standards Board, the Governmental Accounting Standards Board, or the standards of the Office of Management and Budget Circular A-133, Audits of States, Local Governments and Non-profit Organizations, as applicable, and with all other applicable federal and state requirements. The applicant shall cause the auditor to provide a full copy of the audit report and any other management letters or auditor's comments directly to the department within a reasonable period of time after they have been provided to the governing body of the applicant.]

[(4) For loans of $1 million or less, the applicant shall:]

(2) At the applicant's cost, the applicant shall:

(A) [at the applicant's cost and] in a format prescribed by the department, submit an annual report to the department listing project expenditures, providing an accounting of financial assistance proceeds, and providing any other information requested by the department;

(B) on request of the department and at the applicant's cost, provide a report containing the same or similar information as required in the annual report under subparagraph (A) [paragraph (4)(A)] of this paragraph [subsection] or information relating to project expenditures that the applicant is required to provide to another local, state, or federal agency;

(C) hold all project records, accounts, and supporting documents open for state or federal audits for the retention period described in paragraph (3)[(6)] of this subsection; and

(D) forward to the department, upon completion of the project, all project files and reports as requested by the department.

[(5) If required to have an audit under paragraph (3) of this subsection, the applicant shall retain, or cause the auditor to retain, all work papers and reports until the fourth anniversary of the date of the audit report, unless the department notifies the applicant in writing of a later date for the end of the retention period. During the retention period, the applicant shall make audit work papers available to the department within 30 days of the date that the department requests those papers.]

(3) [(6)] Unless the department in writing provides a shorter period, the applicant shall retain all original project files, records, accounts, and supporting documents until the later of the date that:

(A) project is completed;

(B) all financial assistance under this chapter has been repaid, if applicable; or

(C) the retention period required by applicable federal and state law ends.

(4) [(7)] If a project will become a part of the state highway system and the department will assume jurisdiction of the project, the applicant shall ensure that the project, including all its components and appurtenances, is maintained in accordance with §6.44 of this subchapter (relating to Maintenance). The applicant shall transfer all design data, surveys, construction plans, right of way maps, utility permits, and agreements with other entities relating to the project to the department when the department assumes jurisdiction of the project.

§6.43. Design, Construction, and Procurement Standards.

(a) Plans and specifications.

(1) For [federal-aid and] state highway improvement projects, plans and specifications must be in compliance with the department's applicable design manuals and the latest version of the department's Standard Specifications for Construction of Highways, Streets, And Bridges. [standard specifications for construction of highways, streets, and bridges.]

(2) For projects not on the state highway system, plans and specifications must be, at a minimum, in compliance with applicable American Association of State Highway and Transportation Officials (AASHTO) design standards.

(b) Engineer approval. All construction plans shall be signed and dated by a professional engineer registered in Texas.

(c) [(b)] Change orders. The department may require standards and procedures to be used in making any design change orders.

(d) [(c)] Transit projects. Transit projects must comply with all requirements established under §§31.39 - 31.49 of this title (relating to Program Administration).

§6.45. Financial and Credit Requirements.

(a) An applicant receiving financial assistance under this chapter shall:

(1) repay the financial assistance at the specified interest rate over a specified period as provided in the financial assistance agreement;

(2) submit to the department within 30 days of the date of their adoption the annual operating and capital budgets adopted by the applicant each fiscal year under a trust agreement or indenture or equivalent document securing bonds issued for a project, and any amended or supplemental operating or capital budget, approved by the governing body of the applicant and certified as correct by its chief administrative officer or chief financial officer;

(3) maintain its books and records in accordance with generally accepted accounting principles in the United States, as promulgated by the Governmental Accounting Standards Board, the Financial Accounting Standards Board, or pursuant to applicable federal or state laws or regulations, and with all other applicable federal and state requirements, subject to any exceptions required by existing bond indentures of the applicant that are applicable to the project, and any exceptions the applicant has historically implemented that have been acceptable to the public debt markets;

(4) at the applicant's cost, have a full audit of its books and records that is performed annually by an independent certified public accountant selected by the applicant and reasonably acceptable to the department and that is conducted in accordance with generally accepted auditing standards promulgated by the Financial Accounting Standards Board, the Governmental Accounting Standards Board, or the standards of the Office of Management and Budget Circular A-133, Audits of States, Local Governments and Non-profit Organizations, as applicable, and with all other applicable federal and state requirements;

(5) retain, or cause the auditor to retain, all work papers and reports until the fourth anniversary of the date of the audit report, unless the department notifies the applicant in writing of a later date for the end of the retention period and during the retention period, shall make audit work papers available to the department within 30 days of the date that the department requests those papers;

(6) [~~(3)~~] for all debt payable from the same revenue that is to repay the financial assistance, within 30 days after the date of submission to the Electronic Municipal Market Access System (EMMA) of the Municipal Securities Rulemaking Board of annual financial information and notices of material events required to be disclosed under Rule 15c2-12 of the United States Securities and Exchange Commission (17 C.F.R. §240.15c2-12), submit the information or notice to the department or advise the department in writing that the submission to EMMA has been made and provide in that writing the associated CUSIP number; and

(7) [~~(4)~~] abide by provisions governing default.

(b) The applicant shall cause the auditor to provide a full copy of the audit report required under subsection (a)(4) of this section and any other management letters or auditor's comments directly to the department within a reasonable period after they have been provided to the governing body of the applicant.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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CHAPTER 11. DESIGN
SUBCHAPTER E. TRANSPORTATION ENHANCEMENT PROGRAM

43 TAC §§11.200 - 11.221

The Texas Department of Transportation (department) proposes the repeal of §§11.200 - 11.221 concerning Transportation Enhancement Program.

EXPLANATION OF PROPOSED REPEAL

Sections 11.200 - 11.221 (Chapter 11, Subchapter E, Transportation Enhancement Program) prescribe the policies and procedures for the implementation of the federal Transportation Enhancement Program. The Transportation Enhancement Program was replaced by the Transportation Alternatives Program (TAP) in the federal Moving Ahead for Progress in the 21st Century Act in 2012. Chapter 11, Subchapter F, Transportation Alternatives Program (§§11.300 - 11.317), prescribe the policies and procedures for the implementation and administration of TAP.

No new projects have been submitted under the Transportation Enhancement Program since August 2012, nor authorized for funding under the program since August 2016. Therefore, §§11.200 - 11.221 are no longer needed and are being repealed.

FISCAL NOTE

Stephen Stewart, Chief Financial Officer, has determined, in accordance with Government Code, §2001.024(a)(4), that for each of the first five years in which the proposed rules are in effect, there will be no fiscal implications for state or local governments as a result of the department's or commission's enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Jason Pike, Division Director, Design Division, has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rules and therefore, a local employment impact statement is not required under Government Code, §2001.022.

PUBLIC BENEFIT

Mr. Pike has determined, as required by Government Code, §2001.024(a)(5), that for each year of the first five years in which the proposed rules are in effect, the public benefit anticipated as a result of enforcing or administering the rules will be more clarity with only one program and the removal of the program that is no longer active.

COSTS ON REGULATED PERSONS

Mr. Pike has also determined, as required by Government Code, §2001.024(a)(5), that for each year of that period there are no anticipated economic costs for persons, including a state agency, special district, or local government, required to comply with the proposed rules and therefore, Government Code, §2001.0045, does not apply to this rulemaking.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities, as defined by Government Code, §2006.001, and therefore, an economic impact statement and regulatory flexibility analysis are not required under Government Code, §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Pike has considered the requirements of Government Code, §2001.0221 and anticipates that the proposed rules will have no effect on government growth. He expects that during the first five years that the rule would be in effect:

(1) it would not create or eliminate a government program;

(2) its implementation would not require the creation of new employee positions or the elimination of existing employee positions;

(3) its implementation would not require an increase or decrease in future legislative appropriations to the agency;

(4) it would not require an increase or decrease in fees paid to the agency;

(5) it would not create a new regulation;

(6) it would not expand, limit, or repeal an existing regulation;

(7) it would not increase or decrease the number of individuals subject to its applicability; and

(8) it would not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

Mr. Pike has determined that a written takings impact assessment is not required under Government Code, §2007.043.

SUBMITTAL OF COMMENTS

Written comments on the repeal of §§11.200 - 11.221, may be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "transportation enhancement activities." The deadline for receipt of comments is 5:00 p.m. on August 12, 2024. In accordance with Transportation Code, §201.811(a)(5), a person who submits comments must disclose, in writing with the comments, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

STATUTORY AUTHORITY

The repeals are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

None.

§11.200. Purpose.
§11.201. Definitions.
§11.202. Allowable Costs.
§11.203. Local Funding Match.
§11.204. Transportation Enhancement Project Evaluation Committee (TEPEC).
§11.205. Project Eligibility.
§11.206. Call for Nominations.
§11.207. Receipt of Nominations.
§11.208. Nomination Documents.
§11.209. Provision of Nomination Documents to Other Local Governments.
§11.210. Eligibility and Technical Screening.
§11.211. Notification of Ineligibility.
§11.212. Evaluation and Selection of Projects by Certain MPOs.
§11.213. Evaluation of Project Benefits by the Transportation Enhancement Project Evaluation Committee (TEPEC).
§11.214. Selection of Projects by the Commission.
§11.215. Notification of Selection.
§11.216. Inclusion in STIP.
§11.217. Development of Project.
§11.218. Payment of Costs.
§11.219. Elimination of Project from Transportation Enhancement Program.
§11.220. Transfer of Project to Another Agency; Approval of Change.
§11.221. Dedication for Public Use.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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CHAPTER 12. PUBLIC DONATION AND PARTICIPATION PROGRAM
SUBCHAPTER K. ACKNOWLEDGMENT PROGRAM

43 TAC §§12.351 - 12.355

The Texas Department of Transportation (department) proposes amendments to §§12.351 - 12.355, relating to the Acknowledgment Program.

EXPLANATION OF PROPOSED AMENDMENTS

Amendments to §§12.351-12.355 include edits to clarify and streamline existing language throughout, and propose new language to implement the authority granted by Senate Bill 2200, 88th Legislature, Regular Session 2023. SB 2200 permits the department to publicly acknowledge certain donations made to the department. Specifically, if a person makes a donation to the department's roadside assistance and safety service patrol program, the department may acknowledge the donation on a vehicle or equipment used by the program. Through the roadside assistance and safety service patrol, the department offers, as a free service, roadside assistance to clear minor crashes and debris and to assist motorists in need.

Amendments to §12.351, Purpose, add the department's roadside assistance and safety service patrols as highway-related services eligible for the state acknowledgement program.

Amendments to §12.352, Definitions, expand the term "acknowledgment" to also include an acknowledgment decal and add the definition of "acknowledgement decal" as a term used in the subchapter.

Amendments to §12.353, Acknowledgment Program, add the new statutory requirement that a public acknowledgment may not contain comparative or qualitative descriptions of a product, service, facility, or company.

Amendments to §12.354, Acknowledgment Program Vendor Contract; Program Agreement, require that the number and service area of vehicles with acknowledgment decals be included in the vendor's contract with the donor and in the information provided by the vendor to the department. The vendor is required to receive approval from the department for the vehicles to receive decals.

Amendments to §12.355, Acknowledgment Sign, add decals to the methods of acknowledgment, and outline general decal approval, location, and design requirements to ensure decals do not affect the safety of the traveling public. The section heading is changed to "Acknowledgment Signs and Decals" to describe the content of the section with those changes.

FISCAL NOTE

Stephen Stewart, Chief Financial Officer, has determined, in accordance with Government Code, §2001.024(a)(4), that for each of the first five years in which the proposed rules are in effect, there will be no fiscal implications for state or local governments as a result of the department's or commission's enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Michael Chacon, P.E., Director, Traffic Safety Division, has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rules, and therefore, a local employment impact statement is not required under Government Code, §2001.022.

PUBLIC BENEFIT

Michael Chacon has determined, as required by Government Code, §2001.024(a)(5), that for each year of the first five years in which the proposed rules are in effect, the public benefit anticipated as a result of enforcing or administering the rules will be the availability of additional funds for the roadside assistance and safety service patrol program.

COSTS ON REGULATED PERSONS

Michael Chacon has also determined, as required by Government Code, §2001.024(a)(5), that for each year of that period there are no anticipated economic costs for persons, including a state agency, special district, or local government, required to comply with the proposed rules and therefore, Government Code, §2001.0045, does not apply to this rulemaking.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities, as defined by Government Code, §2006.001, and therefore, an economic impact statement and regulatory flexibility analysis are not required under Government Code, §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

Michael Chacon has considered the requirements of Government Code, §2001.0221 and anticipates that the proposed rules will have no effect on government growth. He expects that during the first five years that the rule would be in effect:

(1) it would not create or eliminate a government program;

(2) its implementation would not require the creation of new employee positions or the elimination of existing employee positions;

(3) its implementation would not require an increase or decrease in future legislative appropriations to the agency;

(4) it would not require an increase or decrease in fees paid to the agency;

(5) it would not create a new regulation;

(6) it would not expand, limit, or repeal an existing regulation;

(7) it would not increase or decrease the number of individuals subject to its applicability; and

(8) it would not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

Mr. Chacon has determined that a written takings impact assessment is not required.

SUBMITTAL OF COMMENTS

Written comments on the amendments to §§12.351-12.355 may be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "Roadside assistance and safety service patrol acknowledgment program." The deadline for receipt of comments is 5:00 p.m. on August 12, 2024. In accordance with Transportation Code, §201.811(a)(5), a person who submits comments must disclose, in writing with the comments, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, under Texas Transportation Code, §201.206, which authorizes the commission to enact rules concerning the acknowledgment of donations under that section.

The authority for the proposed amendments is provided by S.B. No. 2200, 88th Regular Session, 2023. The primary author and the primary sponsor of that bill are Sen. Kelly Hancock and Rep. Caroline Harris, respectively.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §201.206

§12.351. Purpose.

The purpose of this subchapter is to provide for a state acknowledgment program that allows the department to acknowledge donations for highway-related services, including [~~such as~~] mowing, litter and debris pick-up, travel services, roadside assistance and safety service patrols, and maintenance of safety rest areas, Travel Information Centers, and toll gantry facilities.

§12.352. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Acknowledgment--A notice [~~notification~~] that is intended only to inform the public that a highway-related service is sponsored by a participating sponsor. The term includes an acknowledgment sign and an acknowledgment decal.

(2) Acknowledgment decal--A decal that is affixed to a roadside assistance or safety service patrol vehicle that is intended only to inform the traveling public that those services are sponsored by a participating sponsor.

(3) [~~(2)~~] Acknowledgment sign--A sign that is located adjacent to the traveled way and that is intended only to inform the traveling public that a highway-related service is sponsored by a participating sponsor.

(4) [~~(3)~~] Department--The Texas Department of Transportation.

(5) [~~(4)~~] Participating sponsor--An individual, corporation, business, firm, group, or association that contributes towards a highway-related service.

[~~(5) TMUTCD--Texas Manual on Uniform Traffic Control Devices issued by the department.~~]

(6) Vendor--An individual or business that acts as the authorized agent of the department in the marketing, administration, and soliciting of a participating sponsor for the acknowledgment program.

§12.353. Acknowledgment Program.

(a) The department may develop an acknowledgment program to recognize donations provided to benefit a highway-related service.

(b) A donation may be used only for the highway-related purpose for which it is made.

(c) The acknowledgment program is applicable to all state highways.

(d) Chapter 1, Subchapter M of this title (relating to Donations) does not apply to a donation accepted under the acknowledgment [~~this~~] program.

(e) The department may contract with a vendor under §12.354 of this subchapter (relating to Acknowledgment Program Vendor Contract; Program Agreement) for services related to the acknowledgment program.

(f) The vendor will install and maintain all acknowledgments[~~, including signs, erected~~] under the acknowledgment [~~this~~] program.

(g) The department or vendor may not accept donations from an individual or entity that is regulated by the department or that is involved with the department through a contract, purchase, payment, or claim, and such an individual or entity may not participate in the acknowledgment program.

(h) An acknowledgment may not contain [~~reference~~]:

(1) a reference to an alcoholic beverage, a

[~~(2)~~] tobacco product, [~~;~~] or

[~~(3)~~] a sexually oriented business, product, or service; or

(2) comparative or qualitative descriptions of a product, service, facility, or company.

(i) A donation received by the department under the acknowledgment [~~this~~] program must be acknowledged by the Texas Transportation Commission in an open meeting not later than the 90th day after the date the donation is accepted by the department.

(j) An acknowledgment must comply with all applicable law.

§12.354. Acknowledgment Program Vendor Contract; Program Agreement.

(a) The department may contract with one or more individuals or businesses for professional services to market, administer, recruit, or secure sponsors for the acknowledgment program.

(b) The department will require a vendor to enter into an agreement prescribed by the department with each participating sponsor.

(c) The agreement must:

(1) require that the participating sponsor comply with state law, including laws prohibiting discrimination based on race, religion, color, age, sex, or national origin;

(2) include a termination clause based on safety concerns, interference with the free and safe flow of traffic, or a determination that the sponsorship agreement is not in the public interest;

(3) provide the specific amount of the donation;

(4) state the fee or fees charged by the vendor to administer the acknowledgment program (directly or indirectly paid by the participating sponsor);

(5) state the specific service being sponsored;

(6) describe the method and location of each acknowledgment;

(7) provide the location of each acknowledgment sign to include roadway, exit number or crossroad, and county; [~~and~~]

(8) provide the number and service area of vehicles with acknowledgment decals; and

(9) [~~(8)~~] state the date of expiration of agreement.

(d) The vendor shall notify the department within three calendar days of receipt of a donation from a participating sponsor. The notification must include:

(1) the name of the participating sponsor;

(2) the highway-related [~~transportation~~] service for which the donation was made;

(3) a description of the method and location of each acknowledgment;

(4) the general location for each acknowledgment sign;

(5) the number and service area of vehicles requested to receive acknowledgment decals;

(6) [~~(5)~~] the name, logo, or image [~~emblem~~] requested by the participating sponsor to be placed on the sign or decal; and

(7) [~~(6)~~] the date on which the sponsorship agreement expires.

(e) The department will determine the location of each acknowledgment sign or the vehicles on which decals may be affixed, as applicable, and promptly will provide the determination to the vendor. The vendor shall maintain the sign location or decal approval information in the participating sponsor's file.

(f) The vendor shall furnish an annual report to the department. The annual report must include a listing of all participating sponsors for which the vendor has accepted a donation under an existing agreement, administrative fees collected, and the annual revenue submitted to the department for each program category. The department, in its discretion, may require one or more other reports from a vendor.

(g) The vendor shall furnish, in a format prescribed by the department, a monthly electronic inventory to the department. The inventory shall include:

(1) a list of all participating sponsors in the acknowledgment program for which the vendor is responsible;

(2) contact information on each participating sponsor including address and key contact name and telephone numbers;

(3) a description of the method and location of each acknowledgment;

(4) the location information for each acknowledgment sign, as provided at the time of installation; [~~and~~]

(5) the number and service area of vehicles with acknowledgment decals; and

(6) [~~(5)~~] the date of expiration of the agreement for each participating sponsor.

(h) If the department determines that a regulatory, warning, or guide sign is needed at a location, an acknowledgment sign at or planned for that location will be removed or relocated. The vendor, as directed by the department, will notify the participating sponsor of the change. If an acknowledgment sign is removed and not relocated within 24 hours of the time of removal, the vendor may extend the participation agreement for a period equal to the number of days in which the acknowledgment sign was not posted.

(i) The department may award one or more contracts for professional services to market, administer, recruit, and secure sponsors for the acknowledgment program.

§12.355. Acknowledgment Signs and Decals [~~Sign~~].

(a) An acknowledgment sign must comply with the requirements of the Texas Manual on Uniform Traffic Control Devices issued by the department [~~TMUTCD~~], including the size and format requirement.

(b) Regulatory, warning, and guidance signs take precedence over an acknowledgment sign.

(c) An acknowledgment sign will be placed near the site for which the associated donation was offered.

(d) Except as provided in subsection (f) of this section, acknowledgment signs will be placed at least 1 mile apart from each other if facing in the same direction and associated with the same highway related purpose.

(e) An acknowledgment sign may not be appended to any other sign, sign assembly, or other traffic control device.

(f) Acknowledgment sign or decal installation must comply with all applicable department standards.

(g) An acknowledgement decal:

(1) must be approved by the department;

(2) must be installed on the rear sides of the vehicle;

(3) must be clearly visible to the traveling public;

(4) may not interfere with official department markings on vehicles;

(5) may include the words "Sponsored by"; and

(6) subject to §12.353(h) of this subchapter, may include one or more of the participating sponsor's name, image, or logo.

(h) [~~(g)~~] If a donation is made for a rest area or travel information center the vendor:

(1) may install one acknowledgment sign for each direction of travel on the highway mainline; and

(2) may install an acknowledgment sign in the rest area or travel information center if that sign is not visible to the highway mainlane traffic and does not pose a safety risk to the rest area or travel information center users.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 27, 2024.

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Becky Blewett
Deputy General Counsel
Texas Department of Transportation
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For further information, please call: (512) 463-8630

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CHAPTER 25. TRAFFIC OPERATIONS
SUBCHAPTER B. PROCEDURES FOR ESTABLISHING SPEED ZONES

The Texas Department of Transportation (department) proposes the repeal of §25.27 and new §25.27 concerning Variable Speed Limits.

EXPLANATION OF PROPOSED REPEAL and REPLACEMENT WITH NEW SECTION

Repeal of §25.27, a pilot Variable Speed Limits program which expired February 1, 2015, is necessary to establish new §25.27, a Variable Speed Limits program, with authority granted through House Bill 1885, 88th Legislature, Regular Session, 2023, which added Transportation Code, §545.353(k).

New §25.27, Variable Speed Limits, establishes the procedures for a new variable speed limits program that will improve traffic safety by allowing the temporary lowering of a prima facie speed limit to address any conditions that affect the safe and orderly movement of traffic on a roadway. Under Transportation Code, §545.353(k), a speed limit that is established under the program must be based on an engineering and traffic investigation. However, because the prima facie speed limits for roadways are established with thorough engineering and traffic investigations, an 85th percentile speed study is not required. The district engineer may determine the appropriate reduction of no more than 10 miles per hour below the prima facie speed limit using engineering judgment based on other commonly-accepted investigation methods, such as the determination of a spot speed within the affected area, speed-over-distance readings from automated field technology, sight distance during inclement weather, or traffic flow obtained by either field investigation or automated technology. The lower speed limit is effective only when the speed limit is posted. New §25.27 also prohibits the lowering of an established prima facie speed limit under this section to divert traffic to a toll road for the purpose of increasing revenue from toll charges, as required by the statute.

In addition to the items required by statute, new §25.27 requires the department to document all changes made to prima facie speed limits under this section and the dates of those changes to maintain an official record. The new rule requires coordination with state and local law enforcement regarding the locations and amount of the speed reductions in order to support speed limit enforcement.

FISCAL NOTE

Stephen Stewart, Chief Financial Officer, has determined, in accordance with Government Code, §2001.024(a)(4), that for each of the first five years in which the proposed rules are in effect, there will be no fiscal implications for state or local governments as a result of the department's or commission's enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Michael Chacon, P.E., Director, Traffic Safety Division, has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rules and therefore, a local employment impact statement is not required under Government Code, §2001.022.

PUBLIC BENEFIT

Mr. Chacon has determined, as required by Government Code, §2001.024(a)(5), that for each year of the first five years in which the proposed rules are in effect, the public benefit anticipated as a result of enforcing or administering the rules in congested traffic

conditions will improve overall system performance and reduce the possibility of primary and secondary traffic crashes.

COSTS ON REGULATED PERSONS

Mr. Chacon has also determined, as required by Government Code, §2001.024(a)(5), that for each year of that period there are no anticipated economic costs for persons, including a state agency, special district, or local government, required to comply with the proposed rules and therefore, Government Code, §2001.0045, does not apply to this rulemaking.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities, as defined by Government Code, §2006.001, and therefore, an economic impact statement and regulatory flexibility analysis are not required under Government Code, §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Chacon has considered the requirements of Government Code, §2001.0221 and anticipates that the proposed rules will have no effect on government growth. He expects that during the first five years that the rule would be in effect:

(1) it would not create or eliminate a government program;

(2) its implementation would not require the creation of new employee positions or the elimination of existing employee positions;

(3) its implementation would not require an increase or decrease in future legislative appropriations to the agency;

(4) it would not require an increase or decrease in fees paid to the agency;

(5) it would not create a new regulation;

(6) it would not expand, limit, or repeal an existing regulation;

(7) it would not increase or decrease the number of individuals subject to its applicability; and

(8) it would not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

Mr. Chacon has determined that a written takings impact assessment is not required under Government Code, §2007.043.

SUBMITTAL OF COMMENTS

Written comments on the repeal of §25.27 and new §25.27 may be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line *"Variable Speed Limits."* The deadline for receipt of comments is 5:00 p.m. on August 12, 2024. In accordance with Transportation Code, §201.811(a)(5), a person who submits comments must disclose, in writing with the comments, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

43 TAC §25.27

STATUTORY AUTHORITY

The repeal is proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Texas Transportation Code, §545.353, which grants the commission authority to adopt rules necessary to implement the Variable Speed Limit program.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §545.353

§25.27. Variable Speed Limits.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 27, 2024.

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Becky Blewett
Deputy General Counsel
Texas Department of Transportation
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For further information, please call: (512) 463-8630

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43 TAC §25.27

STATUTORY AUTHORITY

The new section is proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Texas Transportation Code, §545.353, which grants the commission authority to adopt rules necessary to implement the Variable Speed Limit program.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §545.353

§25.27. Variable Speed Limits.

(a) Purpose. This section describes the criteria governing the authority to set variable speed limits under Transportation Code, §545.353(k).

(b) Criteria for variable speed limits. A district engineer may temporarily lower the established prima facie speed limits on a part of the state highway system in the engineer's district as necessary for the safe and orderly movement of traffic because of traffic volume, adverse weather conditions, highway construction work zones, or traffic crashes and incidents. A speed limit lowered under this section:

(1) must be based on an engineering and traffic investigation described by subsection (c) of this section; and

(2) will be lowered only by five miles per hour or ten miles per hour below the prima facie speed limit.

(c) Engineering and traffic investigation. The engineering and traffic investigation required to establish a speed limit under this section may include the determination of a spot speed within the affected area, speed-over-distance readings from automated field technology, sight distance during inclement weather, or traffic flow obtained by either field investigation or automated technology. An 85th percentile speed study is not required for establishing a variable speed limit.

(d) Sign placement. A speed limit established under this section is effective only if a sign indicating the change in the speed limit

is displayed between 500 and 1,000 feet before the point at which the speed limit takes effect and only when the speed limit is posted. A sign will also be posted at the point where the speed limit takes effect, and at other locations that the district engineer determines are necessary to comply with the Texas Manual on Uniform Traffic Control Devices. Notice of a speed limit established under this section may be displayed using a stationary or portable changeable message sign, as defined by Transportation Code, §544.013. The department may use an electronic sign that is capable of displaying more than one message for posting a reduced speed limit.

(e) Documentation of lowered variable speed limits. The department will keep an official record of all changes made to prima facie speed limit on an affected roadway under this section that includes the date, time, and duration of the lowered speed limit.

(f) Coordination. The department will coordinate with state and local law enforcement agencies regarding the locations and amount of the reductions under this section. The department will make records maintained under subsection (e) of this section available to state and local law enforcement entities in order to support speed limit enforcement.

(g) Prohibited use. Transportation Code, §545.353(k), prohibits the lowering of an established prima facie speed limit under this section to divert traffic to a toll road for the purpose of increasing revenue from toll charges.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Texas Department of Transportation
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PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 209. FINANCE

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes amendments to 43 Texas Administrative Code (TAC) Chapter 209, Subchapter A, Collection of Debts, §209.1 and §209.2; Subchapter B, Payment of Fees for Department Goods and Services, §209.23; and Subchapter C, Donations and Contributions, §209.33. In conjunction with this proposal, the department is proposing the repeal of 43 TAC §209.34, which is also published in this issue of the *Texas Register.*

The department proposes amendments to make the rules consistent with statute; to comply with statute; to remove unnecessary language; to add context or authority for certain rules; to clarify the rules; and to make the rules consistent with current processes, procedures and terminology. In addition, the department proposes amendments that would renumber subdivisions within the rules due to the addition or deletion of subdivisions.

EXPLANATION.

The department is conducting a review of its rules under Chapter 209 in compliance with Government Code, §2001.039. Notice of the department's plan to review is also published in this issue of the *Texas Register.* As a part of the review, the department is proposing necessary amendments and a repeal, as detailed in the following paragraphs.

Subchapter A. Collection of Debts

Proposed amendments to §209.1 would add a new subsection (a) to state the purpose of the section, and to incorporate by reference any requirements in 1 TAC §59.2 that are not addressed in §209.1 to the extent that Government Code, §2107.002 requires a state agency to include the requirements in rule. Government Code, §2107.002 requires a state agency that collects delinquent obligations owed to the state agency to establish procedures by rule for collecting a delinquent obligation. The rules must conform to the guidelines established by the attorney general in 1 TAC §59.2. Although §209.1 contains most of the procedures for collecting a delinquent obligation contained in 1 TAC §59.2, §209.1 does not contain all such procedures, such as certain requirements that apply to a state agency when the state agency refers a delinquent obligation to the attorney general, a collection firm or private attorney for collection. Due to the addition of proposed new §209.1(a), a proposed amendment to §209.1 would re-letter the subsection for definitions to subsection (b).

A proposed amendment would delete the definition for the word "person" in proposed re-lettered §209.1(b) because the word is already defined in Government Code, §311.005, which applies to administrative rules. Proposed amendments would also renumber the remaining definitions in proposed re-lettered §209.1(b) due to the deletion of the definition for the word "person." Proposed amendments to the definition for the word "security" in proposed re-lettered §209.1(b) would delete references to an "entity" because the definition for the word "person" in Government Code, §311.005 includes "any other legal entity."

A proposed amendment to §209.1 would delete current subsection (b) regarding collection from contractors for the following reasons: 1) this issue is already addressed in §209.1(f)(2), regarding the warrant hold procedures of the Comptroller of Public Accounts authorized by Government Code, §403.055 for any debtor to the state; and 2) the language in current §209.1(b) fails to reference the due process requirements under Government Code, §403.055.

Proposed amendments to §209.1(c)(1) through (3) would change the words "will" and "should" to "shall" for consistency and to clarify that the department has a duty to take the actions regarding the notice and demand letters to the debtor. Government Code, §311.016 defines the word "shall" to mean "imposes a duty" unless the context in which the word or phrase appears necessarily requires a different construction. Government Code, §311.002(4) states that Government Code, Chapter 311 applies to each rule adopted under a code. The Chapter 209 rules are adopted under various codes.

Proposed amendments to §209.1(c)(4) would change certain instances of the word "will" to "must" to indicate that it is a condition precedent for each letter to comply with certain requirements before the letter becomes a demand letter under 1 TAC §59.2(a)(4), which defines the term "demand letter" within the definition for the term "make demand." Government Code, §311.016 defines the word "must" to mean "creates or recognizes a condition precedent" unless the context in which

the word or phrase appears necessarily requires a different construction. Proposed amendments to §209.1(c)(4) would also clarify that the department shall include the notation "Return Service Requested" on the envelope for each demand letter, and shall resend the demand letter if the United States Postal Service (USPS) provides the department with an address correction. Although 1 TAC §59.2(b)(3) states that all demand letters should be mailed in an envelope bearing the notation "address correction requested" in conformity with a citation to a section in the Code of Federal Regulations, the cited section does not currently contain the notation or mailer endorsement called "address correction requested." Also, the USPS published a document called "507 Quick Service Guide I Postal Explorer" in which the USPS stated that for first-class mail, the USPS action on the mailer endorsement "Return Service Requested" is to return the "mailpiece" with the new address or the reason for non-delivery attached at no charge. Therefore, "Return Service Requested" is the appropriate phrase to require on the envelope to ensure that USPS provides the department with any new address for the recipient so that the department can resend the demand letter.

Proposed amendments to §209.1(d)(1) would replace a clause with the word "debtor" because the clause repeats a portion of the definition for the word "debtor" in re-lettered §209.1(b). Proposed amendments to §209.1(d)(2) and (3) would add the word "correct" to be consistent with 1 TAC §59.2(b)(2). A proposed amendment to §209.1(d) would also add a new paragraph (4) to be consistent with 1 TAC §59.2(b)(2), which requires that the department's records maintain an accurate physical address where a fiduciary or trust relationship exists between the agency as principal and the debtor as trustee. Due to the addition of new paragraph (4), the remaining paragraphs in §209.1(d) would be renumbered. Proposed amendments to proposed renumbered §209.1(d)(5), (10) and (12) would add a reference to the debtor for clarity. A proposed amendment to renumbered §209.1(d)(13) would replace the word "account" with the word "obligation" because the word "obligation" is defined in re-lettered §209.1(b).

A proposed amendment to §209.1(e)(1)(D) would delete the language that says the department is not required to prepare and file a proof of claim in a bankruptcy case when the department is represented by the attorney general. According to 1 TAC §59.2(b)(6)(C)(i), the attorney general will assist the state agency with the preparation of a proof of claim, but clause (i) does not say the attorney general will file the proof of claim. Also, a proposed amendment to §209.1(e)(1)(D) would clarify that the department shall prepare and file a proof of claim in the bankruptcy case when appropriate based on advice from the attorney general. When the department receives a bankruptcy notice, the department first determines whether the person owes an obligation to the department and whether the bankruptcy notice instructs creditors to not file a claim because no property appears to be available to pay creditors. If the person owes an obligation to the department and the bankruptcy notice does not instruct creditors to not file a proof of claim, the department consults with the attorney general regarding whether to file a proof of claim in the case. The proposed amendment to §209.1(e)(1)(D) would therefore reflect the department's current practice with regard to filing proofs of claim.

Proposed amendments to §209.1(e)(1)(E) would modify the language to be consistent with 1 TAC §59.2(b)(6)(C)(v), which says the state agency should file a claim in each probate proceeding administering the decedent's estate, and does not provide any exception for agencies that are represented by the attorney general.

Proposed amendments to §209.1(e)(2) would change the word "will" to "shall" for consistency and to indicate the department has a duty regarding the actions listed in paragraph (2). Proposed amendments to §209.1(e)(2) would also clarify that the list of uncollectible obligations is illustrative, rather than exhaustive, and includes obligations that are not legally collectible or are uncollectible as a practical matter. These amendments would help to make §209.1(e)(2) consistent with 1 TAC §59.2(b)(6).

A proposed amendment to §209.1(e)(2)(A) would delete the words "dismissed or" because the term "discharged in bankruptcy" is used to refer to an obligation that a creditor is legally prohibited from collecting. Proposed amendments to §209.1(e)(2)(B) would make the language consistent with 1 TAC §59.2(b)(6)(C)(ii) regarding a limitation provision in a lawsuit.

A proposed amendment to §209.1(e)(2)(C) would delete subparagraph (C) because §209.1(e)(2) is a list of delinquent obligations the department shall consider to be uncollectible and shall make no further efforts to collect. The department shall not refer these uncollectible obligations to the attorney general's office. Although 1 TAC §59.2(b)(6)(C)(iii) provides an exception for when circumstances indicate that the account is clearly uncollectible, clause (iii) provides the general rule that the obligation should be referred to the attorney general if a corporation has been dissolved, has been in liquidation under Chapter 7 of the United States Bankruptcy Code, or has forfeited its corporate privileges or charter; or if a foreign corporation had its certificate of authority revoked. The language in §209.1(e)(2)(C) implies the opposite of what 1 TAC §59.2(b)(6)(C)(iii) provides by stating the general rule is that the delinquent obligation is uncollectible in these situations unless the circumstances indicate that the account is nonetheless collectible or that fraud was involved. If a corporation described in 1 TAC §59.2(b)(6)(iii) owes a delinquent obligation to the department, the department shall refer the obligation to the attorney general unless the circumstances indicate that the obligation is clearly uncollectible or another exception under §209.1 or 1 TAC 59.2 applies. For example, the obligation might be legally uncollectible under Business Organizations Code, Chapter 11 regarding the termination of a domestic entity. The list of uncollectible obligations in §209.1(e)(2) is illustrative, rather than exhaustive. Proposed amendments to §209.1(e)(2) would re-letter the subsequent subparagraphs due to the deletion of §209.1(e)(2)(C).

A proposed amendment to proposed re-lettered §209.1(e)(2)(D) would make the language consistent with 1 TAC §59.2(b)(6)(v), which says if the debtor is deceased, state agencies should file a claim in each probate proceeding administering the debtor's estate.

A proposed amendment to §209.1(e)(3) would add a reasonable tolerance below which the department shall not refer a delinquent obligation to the attorney general as required by 1 TAC §59.2(b)(8). The proposed amendment to §209.1(e)(3) would expressly include the department's current reasonable tolerance practice, which is to not refer a delinquent obligation to the attorney general unless the delinquent obligation exceeds $2,500 or the attorney general advises otherwise. A proposed amendment to §209.1(e)(3) would also delete the factors that 1 TAC §59.2(b)(8) requires state agencies to consider in establishing the reasonable tolerance, as well as "policy reasons or other good cause," which is a factor the department previously added to §209.1(e)(3) to consider when making a determination

of whether to refer a delinquent obligation to the attorney general. With the proposed specific $2,500 threshold for referral established in rule, these other factors would become unnecessary, as would the complex case-by-case analysis they imply.

Proposed amendments to §209.1(e)(4) would change the word "will" to "shall" for consistency and to indicate the department has a duty to refer a delinquent obligation to the attorney general for collection efforts if the department determines that the delinquent obligation shall be referred.

Proposed amendments to §209.1(f)(1) would make the language consistent with 1 TAC §59.2(b)(4) regarding the filing of a lien to secure an obligation. A proposed amendment to §209.1(f)(2) would change the word "will" to "shall" for consistency and to clarify that the department has a duty to comply with the "warrant hold" procedures of the Comptroller of Public Accounts authorized by Government Code, §403.055. Although state employees at the Comptroller of Public Accounts and other state agencies refer to the "warrant hold" procedures, the procedures also apply to the issuance of electronic funds transfers. Government Code, §403.055 ensures that no payments are made to a debtor in the form of a warrant or an electronic funds transfer, unless an exception applies. Proposed amendments to §209.1(f)(2) would also make the language consistent with Government Code, §403.055 by referencing electronic funds transfers and the fact that there are certain exceptions that authorize the Comptroller of Public Accounts to issue a warrant or initiate an electronic funds transfer to a debtor. In addition, proposed amendments to §209.1(f)(2) would clarify that the "warrant hold" procedures apply to each individual debtor.

A proposed amendment to the title of §209.2 and proposed amendments to the text throughout §209.2 would change the words "check" or "checks" to "payment device" to be consistent with the terminology in Business and Commerce Code, §3.506, which authorizes the holder of a dishonored payment device to charge the drawer or indorser a reasonable processing fee not to exceed $30 when seeking to collect the face value of the payment device. A proposed amendment to the title of §209.2 and proposed amendments to §209.2(a) and (c) would also clarify that §209.2 applies even if there is one instance of a dishonored payment device by amending the rule from the plural to the singular. In addition, proposed amendments to the text throughout §209.2 would replace the word "endorser" with "indorser" to be consistent with the terminology in Business and Commerce Code, §3.506.

Proposed amendments to §209.2(b) would clarify that the definitions in Business and Commerce Code, Chapter 3 govern §209.2 and control to the extent of a conflict with the definitions in §209.2(b). Proposed amendments to §209.2(b)(2) would modify the definition for "dishonored check" by replacing the words "check" and "instrument" with the term "payment device" because Business and Commerce Code, §3.506 uses the term "payment device." Proposed amendments to §209.2(b)(2) would also modify the definition for "dishonored payment device" to delete the portion of the definition that defines a check because proposed new §209.2(b)(3) would add the definition of the term "payment device" from Business and Commerce Code, §3.506. In addition, proposed amendments to §209.2(b)(2) would correct a grammatical error and modify the definition for "dishonored payment device" to clarify that the listed reasons for the dishonor of the payment device are examples.

A proposed amendment to the first sentence in §209.2(c) would change the word "will" to "shall" to indicate that the department has a duty to process a dishonored payment device using the procedures outlined in §209.2. A proposed amendment to the first sentence in §209.2(c) would also replace the term "returned check" with the term "dishonored payment device" because of the proposed amendments to the definitions in §209.2(b). In addition, a proposed amendment to the first sentence in §209.2(c) would clarify that the department shall not charge a processing fee to the drawer or indorser if the department is prohibited from doing so under Business and Commerce Code, §3.506, which prohibits a person from charging a processing fee to a drawer or indorser if a reimbursement fee has been collected under Article 102.007(e) of the Code of Criminal Procedure.

Proposed amendments throughout §209.2(c) would change the word "will" to "shall" for consistency and to impose a duty on the person to whom the language applies. Proposed amendments to §209.2(c)(2) and (3) would replace the term "payment processor charges" with "any service charge under §209.23 of this title (relating to Methods of Payment)" for clarity. A proposed amendment to §209.2(c)(3) would also clarify that the reference to the processing fee is a reference to the $30 processing fee.

A proposed amendment to §209.2(c)(4) would clarify that the fee that is referenced in §209.23 of this title is a service charge. A proposed amendment to §209.2(c)(4) would also replace the word "chapter" with "title" for consistency. In addition, a proposed amendment to §209.2(c)(4) would remove the following language because a proposed amendment to §209.2(c)(2) would add this language, which is only required to be included the first time that §209.23 is referenced in §209.2: (relating to Methods of Payment).

A proposed amendment to §209.2(d) would add the missing information to correctly reference §209.1. A proposed amendment to §209.2(d) would also replace the term "payment processor charges" with the clause "service charge under §209.23 of this title (relating to Methods of Payment)" for clarity. In addition, a proposed amendment to §209.2(d) would clarify that the reference to the processing fee is a reference to the $30 processing fee. Lastly, a proposed amendment to §209.2(d) would break the sentence into two separate sentences for clarity and readability.

A proposed amendment to §209.2(e) would change the word "will" to "shall" for consistency and to impose a duty on the department regarding the order in which the drawer's or indorser's payment to the department shall be applied. A proposed amendment to §209.2(e) would also clarify that the reference to the processing fee is a reference to the $30 processing fee. In addition, proposed amendments to §209.2(e) would clarify that after the drawer's or indorser's payment is applied to the $30 processing fee, the balance would first be applied to any service charge required by §209.23 of this title (relating to Methods of Payment) and then to the face amount of the dishonored payment device.

Subchapter B. Payment of Fees [for Department Goods and Services]

A proposed amendment to the title to Subchapter B of Chapter 209 would delete the words "for Department Goods and Services" to clarify that Subchapter B is not limited to payment of fees for department goods and services. For example, §209.23 applies to a payment for administrative penalties that are due under an administrative enforcement case, such as the penalties under Transportation Code, §643.251.

A proposed amendment to §209.23(a) would state that the purpose of §209.23 is to establish the methods of payment that the

department may accept and to make the public aware of a potential service charge for certain methods of payment. Although §209.23 lists many different methods of payment that the department may accept, the transaction itself dictates the methods of payment that the department will accept for that particular transaction. For example, when the department's enforcement attorneys send a Notice of Department Decision (NODD) to an alleged violator of certain Texas laws, the NODD tells the person to pay the administrative penalties with a check, cashier's check or money order. Another example is the department's website, which provides information regarding the methods of payment that are accepted for certain transactions, such as the purchase of an oversize/overweight permit. A proposed amendment to §209.23(a) would also delete a reference to the point of sale because the reference to the "point of sale" may confuse a person who is paying an administrative penalty to the department.

A proposed amendment to §209.23(a)(3) would delete the language that says a personal or business check is not an acceptable method of payment of fees under Transportation Code, §502.094 to clarify that this exception is not the only exception for certain methods of payment. For example, §209.2(c)(3) dictates the methods of payment that the department will accept when a person is required to make certain payments to the department after the person's payment device is not honored upon presentment to a bank or other financial institution upon which the payment device is drawn or made. Proposed amendments to §209.23(b) would clarify that a person paying by debit card or electronic funds transfer has a duty to pay any applicable service charge per transaction, which is already required under current law.

Subchapter C. Donations or [and] Contributions

A proposed amendment to the title to §209.33 would delete the words "Acceptance of" because proposed amendments to §209.33 would expand the scope of the rule to include other topics, such as the standards of conduct governing the relationship between board members, department employees and donors. Proposed new §209.33(a) and (b) would clarify that §209.33 provides uniform criteria and procedures regarding donations or contributions, as well as standards of conduct governing the relationship between the board, the department's employes, and donors, regardless of the type or value of the donation or contribution and regardless of whether the donor is a private donor. A proposed amendment to the title of §209.33 would also change the "and" to "or," so the title would say, "Donations or Contributions" because proposed new §209.33(b) would define the term "donation or contribution."

Proposed new §209.33(a) would add language regarding the purpose of §209.33 because proposed amendments to §209.33 would address criteria and procedures regarding donations or contributions under Transportation Code, §1001.008 and Government Code, Chapter 575, as well as standards of conduct that state agencies are required to address in rule under Government Code, §2255.001. As described below, the citations to the applicable statutes in proposed new §209.33(a) would clarify that §209.33 applies, even though some of the cited statutes use different terminology and apply to certain kinds of donations or contributions.

Proposed new §209.33(b) would add definitions for clarity, including the definitions of the words "board," "department," and "executive director" found in Transportation Code, §1001.001. A proposed definition in proposed new §209.33(b) would also define the term "donation or contribution" as anything of value in any form, including real or personal property, money, materials, or services, given by a donor to the board, as authorized by Transportation Code, §1001.008. Although Transportation Code, §1001.008 refers to both donations or contributions, a contribution is also a donation, and both are also gifts. The proposed definition for the term "donation or contribution" in proposed new §209.33(b) would clarify that §209.33 applies to any donation or contribution, even if the donation or contribution does not fall within the scope of Government Code, Chapter 575 because it does not fall within the definition of the word "gift" in Government Code, §575.001 or has a value of less than $500 under Government Code, §575.002. Although Government Code, Chapter 575 uses the term "gift" rather than "donation or contribution," Government Code, §575.001 defines "gift" to mean a donation of money or property.

In addition, a proposed definition in proposed new §209.33(b) would define the word "donor" as a person who makes a donation or contribution to the board, as authorized by Transportation Code, §1001.008. Government Code, §311.005 applies to administrative rules such as §209.33 and defines the word "person" to include a corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity. The proposed definition for "donor" in proposed new §209.33(b) would clarify that §209.33 applies to a donation or contribution from any donor, even if the donation or contribution is from a public donor, such as another governmental agency, and does not fall within the scope of Government Code, §2255.001, which only applies to a donation or contribution of money from a private donor.

Due to the addition of proposed new §209.33(a) and (b), proposed amendments to §209.33 would re-letter current subsections (a) and (b) to become subsections (c) and (d). Proposed amendments to proposed re-lettered §209.33(c) and (d) would clarify that subsections (c) and (d) apply to the donation or contribution, even if it is a single donation or contribution. A proposed amendment to proposed re-lettered §209.33(d) would also clarify that the records of the board meeting shall include the name of the donor. Although Government Code, §575.004 does not apply to a gift that has a value of less than $500, the second sentence in proposed re-lettered §209.33(d) applies to that donation or contribution if the board accepts the donation or contribution because it is a good practice to include the listed information in the records of the board meeting for transparency. Government Code, §575.004 requires a state agency that accepts a gift to record the name of the donor, a description of the gift, and a statement of the purpose of the gift in the minutes of the meeting for the state agency's governing board.

Proposed new §209.33(e) would require the department to use the donation or contribution for the purpose specified by the donor to the extent the stated purpose complies with Transportation Code, §1001.008. Transportation Code, §1001.008 only authorizes the board to accept a donation or contribution for the purposes of carrying out the board's functions and duties.

Proposed new §209.33(f) would add language from §209.34, which says the department may document terms or conditions relating to a donation or contribution through a donation or contribution agreement with the donor. Proposed new §209.33(f) would also amend the language incorporated from §209.34 by changing the clause "terms or conditions" to "terms and conditions," to correct the terminology and by using the term "donation or contribution" as defined by proposed new §209.33(b). In conjunction with the repeal of §209.34, proposed new §209.33(f)

would consolidate the language regarding donations or contributions into one rule.

Proposed new §209.33(g) would state that board members and department employees shall comply with the standards of conduct under Government Code, Chapter 572 and any other law regulating the ethical conduct of state officers and employees when interacting with a donor or potential donor. Government Code, §2255.001(b)(2), (3) and (4) require each state agency that is authorized by statute to accept money from a private donor to adopt rules that govern all aspects of conduct of the state agency in the relationship between the donor, the state agency and the state agency's employees, including the donor's "use" of the state agency's employee, service by the state agency's officer or employee as an officer or director of the donor, and the donor's monetary enrichment of the state agency's officer or employee. Although Government Code, §2255.001 only applies to a donation or contribution of money from a private donor, proposed amendments to §209.33 would apply to a donation or contribution from any donor, including another governmental agency, because a conflict of interest could exist for any donation or contribution. Even though Transportation Code, §1005.001 already says the board and department employees are subject to the standards of conduct under Government Code, Chapter 572 and any other law regulating the ethical conduct of state officers and employees, proposed new §209.33(g) would repeat the language from Transportation Code, §1005.001 with some modifications because Government Code, §2255.001 requires each state agency that is authorized by statute to accept money from a private donor to adopt rules regarding the relationship between the donor, the state agency, the state agency's officers and the state agency's employees. The provisions in Government Code, §2255.001 regarding a private organization that exists to further the purposes and duties of a state agency do not apply to the department because there is no such private organization for the department; therefore, the department is not proposing a rule regarding a private organization.

Proposed new §209.33(h) would state that a board member who serves as an officer or director of a donor shall not vote on that donor's proposal to make a donation or contribution to the board under Transportation Code, §1001.008. Proposed new §209.33(i) would state that if the department's executive director serves as an officer or director of a donor, the executive director shall not vote on that donor's proposal to make a donation or contribution to the board under Transportation Code, §1001.008. Government Code, §2255.001(b)(3) requires each state agency that is authorized by statute to accept money from a private donor to adopt rules that govern all aspects of conduct of the state agency in the relationship between the donor, the state agency, and the state agency's employees, including service by the state agency's officer or employee as an officer or director of the donor. Proposed new §209.33(h) and (i) would help to prevent a conflict of interest regarding a proposed donation or contribution to the board under Transportation Code, §1001.008.

Proposed new §209.33(j) would prohibit a board member or a department employee from authorizing a donor to use department property unless the following requirements are met: 1) the board member or the department, as applicable, must have statutory authority to do so; 2) the property shall only be used for a state purpose; and 3) the property shall be used in accordance with a contract between the department and the donor that complies with Texas law. Most of these requirements spell out current law; however, Government Code, §2255.001(b)(2) requires each state agency that is authorized by statute to accept money from a private donor to adopt rules that govern all aspects of conduct of the state agency in the relationship between the donor, the state agency, and the state agency's employees, including the donor's use of the state agency's property.

The legislature grants any power to board members and the department regarding the use of the department's property; therefore, a board member or a department employee is prohibited from authorizing a donor to use department property unless there is statutory authority to do so. Also, Government Code, §2203.004 says that state property may only be used for state purposes and that a person may not entrust state property to a person if the property will not be used for state purposes. In addition, if the department will not be sufficiently compensated for the use of the department's property, the transaction must comply with Article III, §51 of the Texas Constitution, which prohibits the legislature from granting, or authorizing a state agency to grant, public money to a private individual or entity. Attorneys general have construed Article III, §51 to also apply to the granting of public property to a private individual or entity. *See* Tex. Att'y Gen. Op. Nos. GA-0894 (2011) at 1, MW-373 (1981) at 9. Attorneys general have also stated that Article III, §51 does not prevent the state from making an expenditure of public money or providing public property that benefits a private individual or entity if the following requirements are met: 1) the transaction serves a legitimate public purpose; and 2) the appropriate governing body places sufficient controls on the transaction to ensure that the public purpose is carried out. *See* Tex. Att'y Gen. Op. Nos. GA-0894 (2011) at 2, JC-0244 (2000) at 5, JC-0146 (1999) at 3, MW-373 (1981) at 9. A contract is a general method of placing sufficient controls on the transaction to ensure that the public purpose is carried out.

If the department is sufficiently compensated for the use of the department's property, the transaction is not a gratuity under Article III, §51 of the Texas Constitution. *See* Tex. Att'y Gen. Op. No. GA-0894 (2011). For transparency, proposed new §209.33(j) would require the property to be used in accordance with a contract between the department and the donor that complies with Texas law, even if Article III, §51 of the Texas Constitution does not apply to the transaction.

The department's current §209.34 regarding a donation agreement is proposed to be repealed, in conjunction with the proposed amendment to incorporate the language from §209.34 into §209.33, with a minor amendment, to consolidate the language regarding donations or contributions into one rule.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Glenna Bowman, Chief Financial Officer, has determined that for each year of the first five years the proposed amendments and repeal will be in effect, there will be no significant fiscal impact to state or local governments as a result of the enforcement or administration of the proposal. Ms. Bowman has also determined that there will be no significant impact on local employment or the local economy as a result of the proposal.

PUBLIC BENEFIT AND COST NOTE. Ms. Bowman has also determined that, for each year of the first five years the amended and repealed sections are in effect, there are several anticipated public benefits.

Anticipated Public Benefits. The public benefits anticipated as a result of the proposal include clarified rules that provide the public with the department's processes and requirements regard-

ing collection of debts, charges for dishonored payment devices, methods of payment, and donations or contributions.

Anticipated Costs To Comply With The Proposal. Ms. Bowman anticipates that there will be no new costs to comply with these rules. The cost to persons required to comply with the proposal are costs that currently exist under the law.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. As required by Government Code, §2006.002, the department has determined that the proposed amendments and repeal will not have an adverse economic effect on small businesses, micro-businesses, and rural communities because the proposal does not increase current costs under Chapter 209. The proposed amendments document the department's current procedures and requirements under Chapter 209. Therefore, the department is not required to prepare a regulatory flexibility analysis under Government Code, §2006.002.

TAKINGS IMPACT ASSESSMENT. The department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT. The department has determined that each year of the first five years the proposed amendments and repeal are in effect, no government program would be created or eliminated. Implementation of the proposed amendments and repeal would not require the creation of new employee positions or elimination of existing employee positions. Implementation would not require an increase or decrease in future legislative appropriations to the department or an increase or decrease of fees paid to the department. The proposed amendments and repeal do not create a new regulation, or limit or repeal an existing regulation; however, the proposed amendments to §209.33 expand existing regulations regarding donations or contributions under Transportation Code, §1001.008 to the extent the proposed amendments are not already addressed in current law. Lastly, the proposed amendments and repeal do not affect the number of individuals subject to the rule's applicability and will not affect this state's economy.

REQUEST FOR PUBLIC COMMENT.

If you want to comment on the proposal, submit your written comments by 5:00 p.m. CDT on August 12, 2024. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

SUBCHAPTER A. COLLECTION OF DEBTS

43 TAC §209.1, §209.2

STATUTORY AUTHORITY. The amendments are proposed under Government Code, §2107.002, which requires a state agency that collects delinquent obligations owed to the state agency to establish procedures by rule for collecting a delinquent obligation; Business and Commerce Code, §3.506, which authorizes the holder of a dishonored payment device to charge a maximum processing fee of $30; Transportation Code, §502.191(e), which authorizes the department to collect a service charge in an amount that is reasonably related to the expense incurred by the department in collecting the original amount of a fee under Transportation Code, Chapter 502 when the payment of the original amount by electronic funds transfer, credit card or debit card is not honored by the funding institution or by the electronic funds transfer, credit card, or debit card company on which the funds were drawn; Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles (board) with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout the preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The proposed amendments would implement Government Code, Chapter 2107; Business and Commerce Code, §3.506; and Transportation Code, §502.191(e) and §1002.001.

§209.1. Collection of Debts.

(a) Purpose. The purpose of this section is to comply with Government Code, §2107.002, which requires a state agency that collects delinquent obligations owed to the state agency to establish procedures by rule for collecting a delinquent obligation. To the extent this section fails to address any requirements in 1 TAC §59.2 that the department is required to include in rule under Government Code, §2107.002, the department adopts that requirement in 1 TAC §59.2 by reference.

(b) [~~(a)~~] Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Attorney general--The Office of the Attorney General of Texas.

(2) Debtor--Any person liable or potentially liable for an obligation owed to the department or against whom a claim or demand for payment has been made.

(3) Delinquent--Payment is past due by law or by customary business practice, and all conditions precedent to payment have occurred or been performed.

(4) Department--The Texas Department of Motor Vehicles.

(5) Obligation--A debt, judgment, claim, account, fee, fine, tax, penalty, interest, loan, charge, or grant.

[~~(6) Person--An individual, corporation, organization, business trust, estate, trust, partnership, association, and any other legal entity.~~]

(6) [~~(7)~~] Security--Any right to have property owned by a person [~~or an entity~~] with an obligation to the department sold or forfeited in satisfaction of the obligation, and any instrument granting a cause of action in favor of the department against a person[~~, another entity,~~] or a person's [~~or entity's~~] property, such as a bond, letter of credit, or other collateral that has been pledged to the department to secure an obligation.

[~~(b) Collection from contractors. If an obligation of a contractor of the department is delinquent and the department owes payment to that contractor, the department will subtract the amount of the obligation from the payment if practical.~~]

(c) Notification of obligation and demand letters.

(1) The department shall [~~will~~] send to the debtor written notice of the obligation, such as an administrative enforcement order that imposes a penalty or fine.

(2) If no satisfactory response is received within 30 days after the date that the notice is sent under paragraph (1) of this subsection, the obligation becomes delinquent on the 31st day after the date that notice is sent, unless the department's notice, the law, or a department rule imposes a different deadline for payment. The department shall [~~will~~] send the first demand letter not later than the 30th day after the date on which the obligation becomes delinquent.

(3) If no satisfactory response is received within 30 days after the day on which the first demand letter was sent, the department shall [~~will~~] send the final demand letter no later than 60 days after the date on which the first demand letter was sent. The final demand letter shall [~~will~~] include a deadline by which the debtor must respond and, if the department determines in accordance with subsection (e) of this section that the obligation shall [~~should~~] be referred to the attorney general, a statement that the obligation, if not paid, shall [~~will~~] be referred to the attorney general.

(4) Each demand letter must [~~will~~] set forth the nature and amount of the obligation owed to the department and must [~~will~~] be mailed by first class United States mail, in an envelope that shall bear [~~bearing~~] the notation "Return Service Requested." [~~"address correction requested."~~] If an address correction is provided by the United States Postal Service, the department shall [~~will~~] resend the demand letter to that address prior to referral to the attorney general.

(d) Records. When practicable, the department shall retain a record of a delinquent obligation. A record shall contain documentation of the following information:

(1) the identity of each debtor [~~person liable on all or any part of the obligation~~];

(2) the correct physical address of the debtor's place of business;

(3) the correct physical address of the debtor's residence, where applicable;

(4) an accurate physical address for the trustee when a fiduciary or trust relationship exists between the department as principal and the debtor as trustee;

(5) [~~(4)~~] a post office box address when it is impractical to obtain a physical address, or when the post office box address is in addition to a correct physical address for the debtor;

(6) [~~(5)~~] attempted contacts with the debtor;

(7) [~~(6)~~] the substance of communications with the debtor;

(8) [~~(7)~~] efforts to locate the debtor and the assets of the debtor;

(9) [~~(8)~~] state warrants that may be issued to the debtor;

(10) [~~(9)~~] current contracts the debtor has with the department;

(11) [~~(10)~~] security interests that the department has against any assets of the debtor;

(12) [~~(11)~~] notices of bankruptcy, proofs of claim, dismissals and discharge orders received from the United States bankruptcy courts regarding the debtor; and

(13) [~~(12)~~] other information relevant to collection of the delinquent obligation [~~account~~].

(e) Referrals of a delinquent obligation to the attorney general.

(1) Prior to referral of a delinquent obligation to the attorney general, the department shall:

(A) verify the debtor's address and telephone number;

(B) send a first and final demand letter to the debtor in accordance with subsection (c) of this section;

(C) verify that the obligation is not considered uncollectible under paragraph (2) of this subsection;

(D) prepare and file a proof of claim in the case of a bankruptcy when appropriate based on advice from the attorney general; [~~unless the department is represented by the attorney general;~~] and

(E) file a claim in each [~~the~~] probate proceeding administering the decedent's estate if the debtor is deceased [~~, unless the department is represented by the attorney general~~].

(2) The department shall [~~will~~] consider a delinquent obligation uncollectible and shall [~~will~~] make no further effort to collect if the obligation is not legally collectible or is uncollectible as a practical matter. Examples of an obligation that is not legally collectible or is uncollectible as a practical matter include an obligation, which:

(A) has been [~~dismissed or~~] discharged in bankruptcy;

(B) is subject to an applicable limitations provision that would prevent a lawsuit [~~collection~~] as a matter of law, unless circumstances indicate that the applicable limitations provision has been tolled or is otherwise inapplicable;

[~~(C) is owed by a corporation which has been dissolved, is in liquidation under Chapter 7 of the United States Bankruptcy Code, has forfeited its corporate privileges or charter, or, in the case of a foreign corporation, had its certificate of authority revoked unless circumstances indicate that the account is nonetheless collectible or that fraud was involved;~~]

(C) [~~(D)~~] is owed by an individual who is located out-of-state, or outside the United States, unless a determination is made that the domestication of a Texas judgment in the foreign forum would more likely than not result in collection of the obligation, or that the expenditure of department funds to retain foreign counsel to domesticate the judgment and proceed with collection attempts is justified;

(D) [~~(E)~~] is owed by a debtor who is deceased, where each probate proceeding has [~~have~~] concluded, and where there are no remaining assets available for distribution; or

(E) [~~(F)~~] is owed by a debtor whose circumstances demonstrate a permanent inability to pay or make payments toward the obligation.

(3) Except as advised otherwise by the attorney general, the department shall not refer a delinquent obligation to the attorney general unless the delinquent obligation exceeds $2,500. [~~In making a determination of whether to refer a delinquent obligation to the attorney general, the department will consider:~~]

[~~(A) the expense of further collection procedures;~~]

[~~(B) the size of the debt;~~]

[~~(C) the existence of any security;~~]

[~~(D) the likelihood of collection through passive means such as the filing of a lien;~~]

[~~(E) the availability of resources to collect the obligation; and~~]

[~~(F) policy reasons or other good cause.~~]

(4) The department shall [~~will~~] refer a delinquent obligation to the attorney general for further collection efforts if the depart-

ment determines, in accordance with this subsection, that the delinquent obligation shall [~~should~~] be referred.

(f) Supplemental and alternative collection procedures.

(1) Liens. Where state law allows a state agency to record a lien securing the obligation, the [~~The~~] department shall file the [~~, unless represented by the attorney general, will record a~~] lien [~~securing the delinquent obligation~~] in the appropriate records of the county where the debtor's principal place of business, or, where appropriate, the debtor's residence, is located or in such county as may be required by law as soon as the obligation becomes delinquent or as soon as is practicable. Unless the delinquent obligation has been paid in full, any lien securing the indebtedness may not be released without the approval of the attorney representing the department after the matter has been referred to the attorney general.

(2) Warrants. The department shall [~~will~~] utilize the "warrant hold" procedures of the Comptroller of Public Accounts authorized by Government Code, §403.055, to ensure that no treasury warrants are issued to a debtor [~~debtors~~] and no electronic funds transfers are made to a debtor until the debt is paid, unless an exception applies.

§209.2. Charges for Dishonored Payment Device [~~Checks~~].

(a) Purpose. Business and Commerce Code, §3.506, authorizes the holder of a dishonored payment device [~~check~~], seeking collection of the face value of the payment device [~~check~~], to charge the drawer or indorser [~~endorser~~] of the payment device [~~check~~] a reasonable processing fee, not to exceed $30. This section prescribes policies and procedures for the processing of a dishonored payment device [~~checks~~] made payable to the department and the collection of fees because of the dishonor of a payment device [~~check~~] made payable to the department.

(b) Definitions. The definitions contained in Business and Commerce Code, Chapter 3 govern this section and control to the extent of a conflict with the following definitions in this subsection. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Department--The Texas Department of Motor Vehicles.

(2) Dishonored payment device [~~check~~]--A [~~check, draft, order, electronic payment, or other~~] payment device that is drawn or made upon a bank or other financial institution, and that is not honored upon presentment for reasons including, but not limited to, [~~because~~] the account upon which the payment device [~~instrument~~] has been drawn or made does not exist, [~~or~~] is closed, or does not have sufficient funds or credit for payment of the payment device [~~instrument~~] in full.

(3) Payment device--A check, item, paper or electronic payment, or other device used as a medium for payment.

(c) Processing of a dishonored payment device [~~checks~~]. Upon receipt of notice from a bank or other financial institution of refusal to honor a payment device [~~check~~] made payable to the department, the department shall [~~will~~] process the dishonored payment device [~~returned check~~] using the following procedures; however, the department shall not charge a $30 processing fee to the drawer or indorser if the department is prohibited from doing so under Business and Commerce Code, §3.506.

(1) The department shall [~~will~~] send a written notice by certified mail, return receipt requested, to the drawer or indorser [~~endorser~~] at the drawer or indorser's [~~endorser's~~] address as shown on:

(A) the dishonored payment device [~~check~~];

(B) the records of the bank or other financial institution; or

(C) the records of the department.

(2) The written notice shall [~~will~~] notify the drawer or indorser [~~endorser~~] of the dishonored payment device [~~check~~] and shall [~~will~~] request payment of the face amount of the payment device, any service charge under §209.23 of this title (relating to Methods of Payment) [~~check, any payment processor charges~~], and a $30 processing fee no later than 10 days after the date of receipt of the notice. The written notice shall [~~will~~] also contain the statement required by Penal Code, §32.41(c)(3).

(3) The face amount of the payment device, any service charge under §209.23 of this title [~~check, any payment processor charges,~~] and the $30 processing fee must be paid to the department:

(A) with a cashier's check or money order, made payable to the Texas Department of Motor Vehicles; or

(B) with a valid credit card, approved by the department, and issued by a financial institution chartered by a state or the United States, or a nationally recognized credit organization.

(4) Payments made by credit card must include the service charge [~~fee~~] required by §209.23 of this title [~~chapter~~].

(5) If payment is not received within 10 days after the date of receipt of the notice, the obligation shall [~~will~~] be considered delinquent and shall [~~will~~] be processed in accordance with §209.1 of this title (relating to Collection of Debts).

(d) Supplemental collection procedures. In addition to the procedures described in §209.1 of this title, the department may notify appropriate credit bureaus or agencies if the drawer or indorser [~~endorser~~] fails to pay the face amount of a dishonored payment device, [~~check,~~] any service charge required under §209.23 of this title [~~payment processor charges~~], and the $30 processing fee. In addition, the department [~~, or~~] may refer the matter for criminal prosecution.

(e) Any payment to the department from the drawer or indorser [~~endorser~~] of a dishonored payment device [~~check~~] shall [~~will~~] be applied first to the $30 processing fee, then to any service charge required by §209.23 of this title, and then to the face amount of the dishonored payment device.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER B. PAYMENT OF FEES [~~FOR DEPARTMENT GOODS AND SERVICES~~]

43 TAC §209.23

STATUTORY AUTHORITY. The amendments are proposed under Transportation Code, §1001.009, which authorizes the board to adopt rules regarding the method of collection of a fee for any goods sold or services provided by the department, or for the administration of any department program; Transportation Code, §501.176, which authorizes the department to collect a fee for

processing a title or registration payment by electronic funds transfer, credit card, or debit card in an amount that does not exceed the amount of the charges incurred by the state to process the payment; Transportation Code, §502.094, which authorizes the department to charge a service charge for a payment by credit card or escrow account for a 72-hour or a 144-hour permit; Transportation Code, §502.191, which authorizes the department to collect a fee for processing a payment by electronic funds transfer, credit card, or debit card in an amount not to exceed the amount of the charges incurred by the department to process the payment; Transportation Code, §621.356 and §623.076, which authorize the board to adopt rules that require the payment of a discount or service charge for a credit card payment in addition to the fee; Transportation Code, §643.004, which authorizes the department to adopt rules that require the payment of a discount or service charge for a credit card payment in addition to the fee; Transportation Code, §1001.009, which authorizes the board to adopt rules that require the payment of a discount or service charge for a credit card payment in addition to the fee; Government Code, §2054.2591, which authorizes the Texas Department of Information Resources (DIR) to set fees that a state agency may charge for a transaction that uses the state electronic Internet portal project; Transportation Code, §§501.176, 502.191, and 520.003, which authorize the department to collect the fees that DIR sets under Government Code, §2054.2591; Transportation Code, §1002.001, which provides the board with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout the preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The proposed amendments would implement Transportation Code, §§501.176, 502.094, 502.191, 520.003, 621.356, 623.076, 643.004, 1001.009 and 1002.001; and Government Code, §2054.2591.

§209.23. Methods of Payment.

(a) The purpose of this section is to establish the methods of payment that the Texas Department of Motor Vehicles may accept, depending on the transaction, and to make the public aware of a potential service charge for certain methods of payment. All fees for department goods and services and any fees required in the administration of any department program shall be paid to the department with a method of payment accepted by the department [~~at the point of sale~~], which may be:

(1) a valid debit or credit card, approved by the department, and issued by a financial institution chartered by a state or the United States, or a nationally recognized credit organization;

(2) electronic funds transfer;

(3) a personal check, business check, cashier's check, or money order, payable to the Texas Department of Motor Vehicles [~~, except that a personal or business check is not an acceptable method of payment of fees under Transportation Code, §502.094~~];

(4) cash in United States currency, paid in person; or

(5) by an escrow account, established with the department for the specific purpose of paying fees.

(b) Persons paying the department by credit card, debit card, or electronic funds transfer [~~or Automated Clearing House (ACH)~~] shall pay any applicable service charge per transaction.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER C. DONATIONS OR [~~AND~~] CONTRIBUTIONS

43 TAC §209.33

STATUTORY AUTHORITY. The amendments are proposed under Transportation Code, §1001.008, which authorizes the board to accept a donation or contribution in any form and to delegate to the executive director the authority to accept a donation or contribution that is under $500 or that is not otherwise required to be acknowledged in an open meeting; Transportation Code, §1005.001, which says the board, the executive director, and each employee of the department is subject to the standards of conduct imposed by Government Code, Chapter 572, and any other law regulating the ethical conduct of state officers and employees; Government Code, Chapter 575, which governs a state agency's acceptance of a gift, which is defined as a donation of money or property that has a value of $500 or more; Government Code, §2255.001, which requires a state agency that is authorized by statute to accept money from a private donor to adopt rules governing the relationship between the donor, the state agency and the state agency's employees; Transportation Code, §1002.001, which provides the board with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout the preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The proposed amendments would implement Transportation Code, §§1001.008, 1002.001, and 1005.001; and Government Code, Chapters 572, 575, and 2255.

§209.33. [~~Acceptance of~~] Donations or [~~and~~] Contributions.

(a) The purpose of this section is to establish the criteria and procedures regarding donations or contributions under Transportation Code, §1001.008 and Government Code, Chapter 575, as well as the standards of conduct governing the relationship between the board, the department's employees, and donors under Government Code, Chapter 2255.

(b) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Board--The board of the Texas Department of Motor Vehicles.

(2) Department--The Texas Department of Motor Vehicles.

(3) Donation or contribution--Anything of value in any form, including real or personal property, money, materials, or ser-

vices, given by a donor to the board, as authorized by Transportation Code, §1001.008.

(4) Donor--A person who makes a donation or contribution to the board, as authorized by Transportation Code, §1001.008.

(5) Executive director--The executive director of the Texas Department of Motor Vehicles.

(c) [~~(a)~~] The executive director may accept a donation or contribution [~~donations and contributions~~] valued under $500.

(d) [~~(b)~~] Board acceptance of a donation or contribution [~~donations and contributions~~] shall be made in an open meeting. The records of the meeting shall identify the name of the donor and describe the donation or contribution and its purpose.

(e) If a donor specifies the purpose of the donation or contribution, the department shall use the donation or contribution for that purpose to the extent the specified purpose complies with Transportation Code, §1001.008.

(f) The department may document terms and conditions relating to a donation or contribution through a donation or contribution agreement with the donor.

(g) Pursuant to Transportation Code, §1005.001 and Government Code, §2255.001, board members and department employees shall comply with the standard of conduct imposed by Government Code, Chapter 572 and any other law regulating the ethical conduct of state officers and employees when interacting with a donor or potential donor.

(h) A board member who serves as an officer or director of a donor shall not vote on that donor's proposal to make a donation or contribution to the board under Transportation Code, §1001.008.

(i) If the department's executive director serves as an officer or director of a donor, the executive director shall not vote on that donor's proposal to make a donation or contribution to the board under Transportation Code, §1001.008.

(j) A board member or a department employee shall not authorize a donor to use department property unless the following requirements are met:

(1) the board member or the department, as applicable, must have statutory authority to do so;

(2) the property shall only be used for a state purpose; and

(3) the property shall be used in accordance with a contract between the department and the donor that complies with Texas law.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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43 TAC §209.34

STATUTORY AUTHORITY. The repeal is proposed under Transportation Code, §1001.008, which authorizes the board to accept a donation or contribution in any form and to delegate to the executive director the authority to accept a donation or contribution that is under $500 or that is not otherwise required to be acknowledged in an open meeting; Government Code, §2255.001, which requires a state agency that is authorized by statute to accept money from a private donor to adopt rules governing the relationship between the donor, the state agency and the state agency's employees; Transportation Code, §1002.001, which provides the board with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout the preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The proposed repeal would implement Transportation Code, §§1001.008 and 1002.001; and Government Code, Chapter 2255.

§209.34. Donation Agreement.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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CHAPTER 215. MOTOR VEHICLE DISTRIBUTION

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes amendments to 43 Texas Administrative Code (TAC) Subchapter A, General Provisions, §215.1 and §215.2; proposes amendments to Subchapter C. Franchised Dealers, Manufacturers, Distributors, and Converters, 43 TAC §§215.101, 215.102, 215.120, and 215.121, and proposes new §215.122; in Subchapter D. General Distinguishing Numbers and In-Transit Licenses, proposes amendments to §§215.131 - 215.133; 215.138, 215.140, 215.141, 215.143, 215.144, 215.147, 215.148, 215.150, 215.152, 215.155 - 215.158, and 215.160, proposes new §§215.151, 215.154, and 215.162, and proposes repeals of §§215.151, 215.153, 215.154 and 215.159; and in Subchapter F. Lessors and Lease Facilitators, proposes amendments to §215.178. These amendments, new sections, and repeals are necessary to implement House Bill (HB) 718 and Senate Bill (SB) 224, enacted during the 88th Legislature, Regular Session (2023). HB 718 amended Transportation Code, Chapter 503 to eliminate the use of temporary tags when purchasing a motor vehicle and replaced these tags with categories of license plates, effective July 1, 2025. HB 718 requires the department to determine new distribution methods, systems, and procedures, and set certain fees. Section 34 of HB 718 grants the department authority to adopt rules necessary to implement or administer these changes in law and requires the department to adopt related rules by December 1, 2024. Beginning July 1, 2025, if a motor vehicle is sold to a Texas resident, a Texas dealer will assign a license plate to the vehicle unless the buyer has a specialty or other qualifying license plate, and the assigned license plate will stay with the vehicle if the vehicle

is later sold to another Texas buyer. Proposed amendments implementing Occupations Code, Chapters 1956 and 2305, as amended by SB 224, require certain license holders under Occupations Code, Chapter 2301, and an owner of a garage or repair shop to keep records regarding catalytic converters and make those records available for inspection.

Two new sections are being proposed, §215.122 and §215.162, to implement the catalytic converter recordkeeping and inspection requirements in SB 224, which became effective on May 29, 2023.

Repeals of §215.151 and §215.154 are proposed to implement HB 718 and new replacement rules are being proposed for each of these two sections. Repeals of §215.153 and §215.159 are also proposed to implement HB 718 as §215.153 contains the specifications for all temporary tags, and §215.159 contains the requirements for temporary tags issued and displayed by a converter. Neither of these rules are necessary effective July 1, 2025, when temporary tags will no longer exist.

In 2019, the Sunset Commission recommended the board establish advisory committees and adopt rules regarding standard advisory committee structure and operating criteria. The board adopted rules in 2019 and advisory committees have since provided valuable input on rule proposals considered by the board for proposal or adoption. In February and March 2024, the department provided an early draft of rule changes implementing HB 718 to three department advisory committees, the Vehicle Titles and Registration Advisory Committee (VTRAC), the Motor Vehicle Industry Regulation Advisory Committee (MVIRAC), and the Customer Service and Protection Advisory Committee (CSPAC). Committee members voted on formal motions and provided informal comments on other provisions. The department incorporated input from all three committees and the Tax Assessor-Collector Association (TACA) in proposed §§215.2, 215.138, 215.140, 215.150 - 215.152, 215.155 - 215.158, and 215.178. Additionally, stakeholders including the Texas Automobile Dealers Association (TADA), the Texas Independent Automobile Dealers Association (TIADA), the Texas Recreational Vehicle Association (TRVA), and the Texas Motorcycle Dealers Association (TMDA) provided feedback and input on one or more rule proposals.

Proposed nonsubstantive amendments are necessary to modify language to be consistent with statutes and other chapters in Title 43 of the Texas Administrative Code; to modify language to be consistent with current practice including use of records or electronic systems; to improve readability through the use of consistent terminology; to clarify or delete unused, archaic, or inaccurate definitions, terms, references or other language; to clarify existing requirements, or to modernize language and improve readability.

The effective date for these rules is proposed to be July 1, 2025, unless otherwise designated.

EXPLANATION.

Subchapter A. General Provisions.

Proposed amendments to §215.1 would add references to Occupations Code, Chapter 2305, and Transportation Code, Chapters 504 and 520, as the scope of the rules in this chapter changed to include these statutes. Occupations Code, Chapter 2305 implements SB 224, Transportation Code 504, which regulates the transfer and removal of license plates, implements HB 718, and Transportation Code, Chapter 520 contains provisions regarding dealer responsibilities that may be delegated by a county tax assessor-collector to a dealer deputy including the issuance of a license plate upon the sale of a vehicle as authorized by HB 718.

Proposed amendments to §215.2(a) add statutory references to definitions in Occupations Code, Chapter 2305, and Transportation Code, Chapter 520 to reflect the change in the scope of the chapter. A proposed amendment in §215.2(b)(4) would add a definition for employee and defines the term as a natural person employed directly by a license holder for wages or a salary and would eliminate contractors from being considered employees under Chapter 215. Proposed amendments would renumber the remaining definitions in this subsection. The effective date for this section is proposed to be 20 days after the adoption is filed with the Texas Secretary of State.

Subchapter C. Franchised Dealers, Manufacturers, Distributors, and Converters.

Proposed amendments to §215.101 would add references to Occupations Code, Chapter 2305, and Transportation Code, Chapters 504 and 520, as the scope of the rules in this chapter changed to include these statutes. Occupations Code, Chapter 2305 implements SB 224, Transportation Code 504, which regulates the transfer and removal of license plates, implements HB 718, and Transportation Code, Chapter 520 contains provisions regarding dealer responsibilities that may be delegated by a county tax assessor-collector to a dealer deputy including the issuance of a license plate upon the sale of a vehicle as authorized by HB 718. The effective date for this section is proposed to be 20 days after the adoption is filed with the Texas Secretary of State.

A proposed amendment to §215.102(e)(1)(K)(iv) requires an applicant for a manufacturer's distributor's, or converter's license to inform the department whether the applicant repairs a motor vehicle with a catalytic converter in Texas and if this type of repair is performed, the physical address at which the applicant performs this repair. This proposed amendment will allow the department to obtain the information necessary to carry out its responsibilities to inspect license holders' records of catalytic converter repair under SB 224. The effective date for this section is proposed to be 20 days after the adoption is filed with the Texas Secretary of State.

Proposed amendments to §215.120(d) and (e) would require a manufacturer, distributor, or converter to maintain a record of the license plates assigned for its use in the designated electronic system that the department will use to manage these industry license plates. Certain data for these license plates are currently housed in eLICENSING, the department's electronic licensing system. During the next several months, the department will decide whether license holders will be required to maintain industry license plate data in the current system or in the new license plate system that is being developed and deployed to implement the broader changes required by HB 718. A proposed amendment to §215.120(f) encourages license holders to immediately report all stolen license plates to local law enforcement. This proposed amendment would give local law enforcement earlier notice, which may aid law enforcement in identifying and stopping related criminal activity more quickly than if the stolen license plate was solely reported in the department's electronic database. A proposed amendment to §215.120(g) would repeal the current text as these license holders will no longer be required to keep local records because all records will be held in

the department-designated system, and the remaining subsections would be re-lettered accordingly.

Proposed amendments to §215.121 would add sanctions for a license holder who fails to report a lost, stolen, or damaged license plate to the department and who fails to keep or maintain records related to catalytic converters. A proposed amendment to §215.121(b)(7) would add the phrase "or fails to report a lost, stolen, or damaged license plate" to inform a license holder that a sanction may apply for failure to report these types of plates within the timeframe required by rule. This sanction is necessary as failure to report such a plate will prevent this information from being promptly transmitted to law enforcement and risks public harm. A proposed amendment to §215.121(b)(18) would add a sanction for a license holder who fails to maintain the catalytic converter records required under Occupations Code, Chapter 2305, Subchapter D. This sanction is important as a license holder's failure to keep catalytic converter records will impede law enforcement from investigating related criminal activity, which harms Texas citizens. The effective date for this section is proposed to be 20 days after the adoption is filed with the Texas Secretary of State.

Proposed new §215.122 implements SB 224, which is currently in effect. Proposed new §215.122 informs a manufacturer, distributor, or converter that if the license holder repairs a vehicle with a catalytic converter in Texas, the license holder must comply with the recordkeeping and inspection requirements under Occupations Code, Chapter 2305, Subchapter D. These recordkeeping and record inspection requirements are required by statute and allow law enforcement to investigate related criminal activity, which harms Texas citizens. The effective date for this section is proposed to be 20 days after the adoption is filed with the Texas Secretary of State.

Subchapter D. General Distinguishing Numbers and In-Transit Licenses.

Proposed amendments to §215.131 add references to Transportation Code, Chapters 504 and 520, and Occupations Code, Chapter 2305, as the scope of the rules in this subchapter changed to include these statutes. SB 224 amended Occupations Code, Chapter 2305 to give the department authority to inspect license holders' catalytic converter records, and Transportation Code, Chapter 520 contains provisions regarding dealer responsibilities that may be delegated by a county tax assessor-collector to a dealer deputy including the issuance of a license plate upon the sale of a vehicle as authorized by HB 718. The effective date for this section is proposed to be 20 days after the adoption is filed with the Texas Secretary of State.

Proposed amendments to §215.132 would define certain terms used in the section: buyer's license plate, buyer's temporary license plate, and dealer's temporary license plate. Proposed amendments also delete the definition of temporary tag. A buyer's license plate is proposed to be defined as a general issue plate or set of license plates issued by a dealer to a vehicle buyer under Transportation Code, §503.063 for a vehicle that will be titled and registered in Texas. This term is also proposed to be defined to include a buyer's provisional license plate, which is a short-term use license plate that a dealer may issue if the dealer does not have the applicable license plate available for the type of vehicle the buyer is purchasing. A buyer's temporary license plate is proposed to be defined as a temporary license plate to be issued by a dealer to a non-resident vehicle buyer whose vehicle will be titled and registered out-of-state in accordance with Transportation Code, §503.063(i). A dealer's temporary license plate is defined as a license plate that a dealer who holds a general distinguishing number (GDN) may purchase and use for the purposes allowed under Transportation Code, §502.062. Proposed amendments to these definitions would implement HB 718, which eliminates temporary paper tags and requires the department to create new categories of license plates that will be affixed to a vehicle upon purchase. Some of the remaining definitions are proposed to be re-lettered to allow for the addition and deletion of definitions.

Proposed amendments to §215.133(c)(1)(I) would add a reference to the "license plate system" to implement HB 718, which eliminates temporary paper tags and becomes effective on July 1, 2025. Additionally, a proposed amendment to §215.133 would add §215.133(c)(1)(P) to require GDN applicants to disclose whether the applicant repairs a motor vehicle with a catalytic converter in Texas, and if so, the physical address where the repair is performed. This proposed amendment will allow the department to obtain the information necessary to carry out its responsibilities under SB 224. To allow for the additional requirement, the following subsection is re-lettered accordingly. A proposed amendment to §215.133(c)(2)(J) would add a requirement that applicants complete training in webDEALER, the department's system through which dealers submit to the county tax assessor-collector title and registration applications for purchasers. This amendment would implement HB 718, which requires all dealer title and registration applications for purchasers to go through webDEALER beginning on July 1, 2025. Proposes amendments to §215.133(c)(3)(B) would add "dealer" and "temporary license" before the word "plate" to be consistent with the amended definitions in §215.132, and to implement HB 718 when it becomes effective on July 1, 2025. The effective date for this section is proposed to be the first day of a calendar month following a period of at least 20 days after the adoption is filed with the Texas Secretary of State.

Proposed amendments to §215.138 would add certain dealer's plates to those subject to the requirements of the chapter, clarify certain exceptions to the license plate requirements, and add record keeping and reporting requirements to prevent fraud and theft. Proposed amendments to §215.138 adds personalized prestige and temporary license plates to the types of license plates to which the requirements of the section apply. These types of license plates are proposed to be added in §215.138(a), (b), (c), (f) and (j) to implement HB 718. This section lists the requirements for dealer's license plates and referencing these additional types of plates in each subsection ensures these requirements are inclusive of all types of dealer's plates that may be used by a dealer. Proposed amendments to §215.138(c) would add §215.138(c)(3) and (4) to add golf carts and off-highway vehicles, as described by Transportation Code Chapters 551 and 551A, respectively, to ensure that §215.138(c) incorporates all the types of vehicles that dealer's plates may not be displayed on, including those with the statutory exceptions, for clarity and ease of reference. Proposed amendments to §215.138(h) would add the requirement that a dealer maintain records of each dealer's plate in the department's designated electronic license plate system rather than in the dealer's records. This proposed amendment allows the department to prevent fraud and allows law enforcement access to these records. Additionally, in §215.138(h)(4), which describes information that must be entered into the system, proposed language requires a dealer to enter the name of the person in control of the vehicle or license plate. This proposed change would make it easier for the department and law enforcement

to identify and investigate fraud and other illegal activity, while allowing dealers flexibility to assign a license plate to a vehicle or a driver. A proposed amendment to §215.138(j) encourages a dealer to immediately alert law enforcement by reporting a stolen license plate to a local law enforcement agency. This proposed amendment would give local law enforcement earlier notice, which may aid law enforcement in identifying and stopping related criminal activity more quickly than if the stolen license plate was solely reported in the department's electronic database. A proposed amendment would strike §215.138(k), which previously required a dealer's license plate record to be available for inspection by the department. This proposed subsection is no longer necessary as dealers will be entering these records into the department's designated electronic license plate system. A proposed amendment would re-letter (l) to (k) for continuity. A proposed amendment to §215.138(l) would clarify that a wholesale motor vehicle auction GDN holder that also holds a dealer's GDN may display a dealer's temporary license plate assigned to their dealer GDN on a vehicle that is being transported to or from the licensed auction location. This proposed addition clarifies that a person who holds both GDNs may use a dealer's temporary license plate to legally transport vehicles between its businesses.

Proposed amendments to §215.140 would add requirements regarding delivery of buyer's license plates and storage of those license plates. HB 718 eliminated temporary tags and created a need for buyer's plates to be delivered to dealers so that dealers may issue license plates to buyers upon vehicle purchase. This statutory change requires dealers to properly receive, secure, and store license plates to prevent fraud, plate theft, and related criminal activity. A proposed amendment to §215.140(a)(5)(F) adds buyer's plates to the types of license plates that will not be mailed to an out-of-state address, but that will only be delivered or mailed to a dealer's physical location. These proposed amendments are necessary to responsibly implement HB 718, which eliminates temporary tags and creates a need for buyer's plates to be delivered to dealers so that they may issue them to buyers upon vehicle purchase. Another proposed amendment to §215.140 would add §215.140(a)(6)(E), which requires a dealer to store all license plates in a dealer's possession in a locked or secured room or closet or in at least one securely locked, substantially constructed safe or steel cabinet bolted or affixed to the floor in such a way that it cannot be readily removed, to deter theft or fraudulent misuse of license plates. A proposed amendment to §215.140(b)(5) would add subparagraph (E), which would create a similar requirement for a wholesale motor vehicle auction GDN holder to securely store license plates removed from vehicles sold at auction, such as license plates from vehicles sold to out-of-state buyers or for export.

Proposed amendments to §215.141 would remove references to temporary tags and add sanctions that the department may assess if a license holder fails to comply with new license plate requirements or catalytic converter record requirements. These proposed changes are necessary to enforce the provisions of HB 718 and SB 224. A proposed amendment to §215.141(b)(10) would add references to "buyer's license plate or set of license plates or temporary license plates" to reflect the new plate types that the department has developed to implement HB 718, which will become effective July 1, 2025. Proposed amendments to §215.141(b)(12) and (13) would add an expiration date for temporary tags of July 1, 2025, to implement HB 718. A proposed amendment to §215.141(b)(25) would update the title of a referenced rule to reflect the proposed new title for that rule. Proposed new §215.141(b)(26) would authorize sanctions should a license holder fail to securely store a license plate. Proposed new §215.141(b)(27) would authorize sanctions should a license holder fail to maintain a record of dealer license plates as required under §215.138. Proposed new §215.141(b)(28) would authorize sanctions should a license holder fail to file or enter a vehicle transfer notice. Proposed new §215.141(b)(29) would authorize sanctions should a license holder fail to enter a lost, stolen, or damaged license plate in the electronic system designated by the department within the time prescribed by rule. Proposed new §215.141(b)(34) would authorize sanctions should a license holder fail to remove a license plate or set of license plates from a vehicle sold to an out-of-state buyer or from a vehicle sold for export. The proposed amendments for §215.141(b)(26) - (29) and (34) would make the requirements of HB 718 enforceable by the department when HB 718 becomes effective on July 1, 2025. Proposed new §215.141(b)(35) would authorize sanctions should a license holder fail to keep or maintain records required under Occupations Code, Chapter 2305, Subchapter D or to allow an inspection of these records by the department, to implement the record-keeping and inspection requirements of SB 224. The effective date for this section is proposed to be 20 days after the adoption is filed with the Texas Secretary of State.

A proposed amendment to §215.143(c) would streamline license plate recordkeeping for in-transit license plates by requiring a drive-a-way operator to maintain required license plate data in the department-designated system instead of in a local record. Additionally, in §215.143(c)(4), a proposed amendment changes the requirement that the record contain the name of the person in control of the vehicle to the person in control of the license plate. This proposed amendment would allow a drive-a-way operator to designate in the license plate system which employee is currently responsible for an in-transit plate, which would inform the department or law enforcement in case of a complaint. A proposed amendment in §215.143(d)(1) strikes "operator's plate record" and replaces it with "department--designated system" for consistency. A proposed amendment to §215.143(e) would add language encouraging a drive-a-way operator to immediately alert law enforcement by reporting a stolen license plate to local law enforcement. This proposed amendment would give local law enforcement earlier notice, which may aid law enforcement in identifying and stopping related criminal activity more quickly than if the stolen license plate was solely reported in the department's electronic database. A proposed amendment would strike §215.143(f), which requires that a drive-a-way operator's license plate record be available for inspection, as this is no longer necessary because these license holders will be required to enter that information into the department's designated system. The remaining sections are re-lettered for continuity.

Proposed amendments to §215.144 would replace references to the electronic title system in subsection §215.144(e)(8) and (9) with references to webDEALER as defined in §217.71 to clarify the system to be used. A proposed amendment to §215.144(e)(9) would delete an inadvertent use of "new" to describe a motor vehicle as the paragraph covers both new and used motor vehicles and is unnecessary and would add "properly stamped" which was inadvertently deleted in the June 1, 2024, amendment to this rule. Proposed amendments to §215.144(f)(3) would add a reference to title to clarify that the reasonable time periods apply to both filing of a title and registration, simplify language to improve readability, and add a new subparagraph (C) regarding timeliness for filing a title or regis-

tration for certain military personnel. A proposed amendment to §215.144(i)(2)(C) would change the requirement to make title application on public motor vehicle auctions from 20 working days of sale to a reasonable time as defined in §215.144 (f) for consistency. Proposed amendments to §215.144(l) would add punctuation and create two new subsections. The first subsection is retitled "webDEALER" and incorporates existing language regarding the department's web-based title application. The proposed new subsection is titled "License Plate System." This section requires a license holder to comply with §215.151, which contains general requirements for the issuance of license plates by dealers and is an important reference for dealers.

Proposed amendments to §215.147(d) would add a requirement that a dealer remove, void, and destroy or recycle any license plate or registration insignia as required under §215.158 before transferring ownership of a vehicle to be exported, and strike paragraphs (1)-(3) relating to temporary tags. These amendments are necessary to implement HB 718 and to prevent theft and fraud of these plates which are no longer assigned to a vehicle registered in Texas.

A proposed amendment to §215.148 would make a non-substantive change to delete a repetitive phrase and parenthetical in §215.148(c). The effective date for this section is proposed to be 20 days after the adoption is filed with the Texas Secretary of State.

A proposed amendment to §215.150 would change the name of the section to strike "Temporary Tags" and replace that phrase with "License Plates" to implement HB 718, which eliminated temporary tags. A proposed amendment to §215.150(a) would require a dealer to issue a general issue license plate or set of license plates for a vehicle type the dealer is authorized to sell to (1) a buyer of a new vehicle, unless the buyer has an authorized plate or set of plates which may be assigned to the vehicle, and (2) a buyer of a used vehicle if a license plate or set of plates did not come with the vehicle or if the buyer does not have authorized plates that can be assigned to the vehicle. The proposed amendments to §215.150 would recognize that under HB 718, a converter may not issue a temporary tag or license plate effective July 1, 2025, and that the purpose of the department's database will change from the tracking and issuance of temporary tags to the tracking and issuing of license plates on July 1, 2025. Other proposed amendments throughout this section would implement HB 718 by striking all language referencing temporary tags.

New §215.150(b) would add an exception to the requirements in §215.150(a) for vehicles sold to commercial fleet buyers authorized by a county tax assessor-collector as a dealer deputy under §217.166, because these commercial fleet buyers are authorized as dealer deputies to assign license plates to vehicles purchased from a dealer. Proposed new §215.150(c) would require a dealer to issue a buyer's temporary license plate to an out-of-state buyer for a vehicle to be registered in another state.

Proposed amendments to current §215.150(b) would re-letter the subsection as §215.150(d) and would replace "license holder" with "dealer" for consistency in terminology. Another amendment to current §215.150(b) would remove a list of the types of temporary tags and substitute in its place a cite to license plates under Transportation Code, §503.063, which was amended by HB 718 to replace temporary tags with license plates. Additionally, proposed amendments to current §215.150(b) would replace references to the temporary tag database with references to the license plate system and update associated statutory and rule references to implement HB 718.

Proposed amendments to §215.150(c) would re-letter it to §215.150(e), delete "federal, state, or local" to describe a governmental agency as this descriptor is unnecessary, clarify that a governmental agency may issue either a general issue license plate or a buyer's temporary license plate unless the buyer has a qualifying license plate to place on the vehicle, remove references to buyer's temporary tags and internet down tags, and update Transportation Code and rule citations.

Proposed amendments to current §215.150(d) would re-letter it to §215.150(f), strike the term "converter," and strike references to the temporary tag database, replacing those references with license plate system to implement HB 718. Additionally, a proposed amendment to re-lettered §215.150(f)(4) would delete current language and would replace with a requirement for a dealer to secure all license plates, including license plates assigned to vehicles in inventory, dealer's license plates, and unissued buyer's license plates in a locked and secured room or closet or in one or more securely locked, substantially constructed safes or steel cabinets bolted or affixed to the floor or wall. A proposed amendment also requires dealers to properly mark and destroy, recycle, or return all void license plates as required under §215.158. These amendments are necessary to responsibly implement license plate management required under HB 718 and to deter license plate theft and fraud.

Current §215.151 is proposed for repeal as this section describes how to use and affix temporary tags, which HB 718 has eliminated. Proposed new §215.151, titled "License Plate General Use Requirements, would implement HB 718, which requires the department set rules for affixing license plates to vehicles. Proposed new §215.151 would maintain consistency with how plates are currently affixed under §217.27. Proposed new §215.151(a) sets out the requirements for securing a license plate or set of plates to a vehicle for a Texas buyer, in accordance with §217.27. Proposed new §215.151(b) would requires a dealer to issue a buyer's temporary license plates and secure these license plates to the vehicle for those vehicles purchased by non-resident buyers who intend to title and register the vehicle in another state. Proposed new §215.151(c) would require a dealer to remove and destroy a plate or set of plates on a used vehicle if the buyer has a specialty, personalized or other qualifying plate to put on the vehicle. Proposed new §215.151(d) would require a dealer to secure plates that are assigned to a particular used vehicle and either put those license plates back on the vehicle at the time of sale, or if the vehicle is sold to an out-of-state buyer or for export, to update the license plates system and destroy or recycle those plates in accordance with department rules. These proposed revisions are necessary to implement HB 718.

Proposed amendments to §215.152 would replace all references to temporary tags with references to dealer-issued buyer's license plates to implement HB 718, which eliminated temporary tags and the temporary tag database and requires a dealer to issue or reassign a license plate or set of license plates to most vehicle buyers. Proposed amendments to §215.152(a) would strike the terms "converter" and "temporary tag database" and replace those terms with "webDEALER" and "the license plate system," and add language requiring a dealer to be responsible for verifying receipt of license plates in the license plate system. These proposed amendments recognize that under HB 718, a converter may not issue a temporary tag or license plate effective

July 1, 2025, and that the purpose of the database will change from the tracking and issuance of temporary tags to the tracking and issuing of license plates on July 1, 2025.

Proposed amendments to §215.152(b) would update the cross-reference with the proposed new title of §215.157, "Issuing License Plates when Internet Not Available," and would replace current language by substituting requirements for a dealer to enter information in the license plate system, including information about the vehicle, the buyer, and the license plate number assigned.

Proposed amendments to §215.152(c) would require the department to inform each dealer of the annual maximum number of buyer's license plates the dealer is authorized to obtain, substitute "obtain" for "issue," and add a reference to Transportation Code §503.063. Additional proposed amendments to §215.152(c) would add language to describe the two types of buyer's license plate allotments that a dealer is eligible to obtain from the department, which are: (1) an allotment of unassigned general issue license plates or set of license plates for vehicles to be titled and registered in Texas, and (2) a separate allotment of buyer's temporary license plates for non-resident buyers.

Proposed amendments to §215.152(d)(1) would provide that a dealer's allotment will be based on vehicle title transfers, sales, or license plate issuance data as determined from the department's systems from the previous fiscal year, as well as previously used multipliers based on time in operation or actual in-state and out-of-state sales transactions. Proposed amendments to these previously existing factors in §215.152(d)(A) and (B) would replace the "number of dealer's temporary tags issued" with the number of transactions processed through the department. Proposed amendments to §215.152(d)(4) would strike temporary tags and add the word "annual" to be clear that the allotment of license plates is on an annual basis.

A proposed amendment would strike as unnecessary former §215.152(e), which relates to allocating temporary tags for converters because a converter may not issue a temporary tag or license plate effective July 1, 2025, under Transportation Code, Chapter 503, as amended by HB 718. The remaining subsections of §215.152 are proposed to be re-lettered accordingly.

Proposed amendments to current §215.152(f), proposed to be re-lettered as §215.152(e) would strike references to "converter," and replace references to temporary tags with references to general issue and buyer's temporary license plates. Additionally, proposed amendments to current §215.152(f)(1) would provide that a new franchised dealer may be issued 200 general issue license plates and 100 buyer's temporary plates annually, and would provide that the franchised dealer may request more license plates based on credible information indicating a higher quantity is warranted. These proposed plate allocations are based on historical data for newly licensed franchised dealers. Proposed amendments would strike current §215.152(f)(1)(A) and (B) because they relate only to temporary tags. Proposed amendments to current §215.152(f)(2) would provide the annual allocation of license plates for new non-franchised dealers as 100 general issue license plates and 48 buyer's temporary license plates. These proposed plate allocations are based on historical data for newly licensed non-franchised dealers. Another proposed amendment to current §215.152(f) would strike §215.152(e)(3), because it relates only to the converter's temporary tag allocation.

Proposed amendments to current §215.152(g) and (h), which are proposed to be re-lettered as §215.152(f) and (g), would replace references to temporary tags with references to license plates throughout, changes "license" to "GDN" and "dealership" to "dealer" for consistency in terminology, and update subsection designations based on proposed amendments.

New proposed §215.152(h) would state that the plates will be distributed on a quarterly basis, so that dealers will have enough inventory on hand to conduct business but will not have to store the entirety of the annual plate allotment at once. New proposed §215.152(i) would explain when a dealer may submit a request for additional plates, to ensure that dealers are able to order more plates well in advance of needing them and paralleling the current requirements for temporary tag requests in current §215.152(i) and would delete prior language that would no longer be applicable under HB 718. New proposed §215.152(j) would require a request to be submitted in the license plate system. New proposed §215.152(k) would explain the process by which a dealer must submit the request for additional plates and the information that is required from the dealer, incorporating language currently in §215.152(i) with the terms and statutory citations changed for consistency with HB 718 implementation. Proposed amendments to the language currently in §215.152(i) that is proposed to be incorporated into new §215.152(k)(3) would change the division within the department where appeals will be reviewed from the Motor Vehicle Division to the Vehicle Titles and Registration Division to be consistent with current agency operations. Other proposed amendments would re-letter current §215.152(j) and (k), delete references to converters and temporary tags because a converter may not issue a temporary tag or license plate effective July 1, 2025, under Transportation Code, Chapter 503, as amended by HB 718, add references to license plate system activity, and update statutory references. A proposed amendment would strike §215.152(l), as this subsection, prohibiting rollover of temporary tag allotments from one calendar year to the next, is no longer necessary. Each of these proposed amendments is necessary to implement HB 718.

Section 215.153 is proposed for repeal as part of HB 718 implementation because it only sets out the specifications for the design of temporary tags and is therefore no longer necessary. Similarly, §215.154 is proposed for repeal because it only describes how dealer's temporary tags are to be used, and these temporary tags will no longer exist following the implementation of HB 718.

Proposed new §215.154 would implement HB 718 by addressing the allocation of a new license plate type created by HB 718, a dealer's temporary license plate. Proposed new §215.154(a) would base the number of dealer's temporary license plates a dealer may order on the type of license for which the dealer applied and the number of vehicles the dealer sold during the previous year, to deter theft and fraudulent misuse of temporary plates by limiting supply. Proposed new §215.154(b) would give the maximum number of dealer's temporary license plates issued to new license applicants during the applicants' first license term in a graphic table. Proposed new §215.154(c) would provide all dealers licensed on July 1, 2025, with the opportunity to obtain the number of dealer's temporary plates that a new dealer of the same license type is eligible for on that date as defined in §215.154(b), and an additional number based on dealer sales in the previous year as defined in §215.154(e). This new proposed subsection would help to ensure that existing dealers have access to enough dealer's temporary plates during the transition from using agent and vehicle temporary tags

to using dealer's temporary plates. Proposed new §215.154(d) would list the exceptions for which a dealer would not be subject to the initial allotment so that certain dealers who previously qualified for more license plates may continue using their current allocation. Proposed new §215.154(e) would allow a dealer to obtain more than the maximum initial allotment limits for dealer's temporary plates by providing sales numbers from the prior year that justify an increased allocation, to allow for flexibility and business continuity for those dealers who have a documented need for additional plates. Similarly, proposed new §215.154(f) would allow wholesale motor vehicle dealers to obtain more than the maximum initial allotment of dealer's temporary plates by providing the department with numbers of vehicles purchased over the past 12 months that predict a need for additional license plates, to ensure that a wholesaler has sufficient temporary plates to meet documented demand. Proposed new §215.154(g) would allow the department to waive maximum issuance restrictions if the waiver is essential for the continuity of business if the dealer provides the department with sales data and reason for the waiver request, to allow the department flexibility to meet the demonstrated business needs of its license holders with appropriate allocations on a case-by-case basis. Proposed new §215.154 would thus implement HB 718 with an allocation system for dealer temporary license plates that balances the need to limit allocations to avoid excess inventory creating an increased risk of license plate fraud or theft, with the need to provide license holders with enough dealer temporary license plates to meet business needs.

Proposed amendments to §215.155 would replace all references to buyer's temporary tags with "general issue license plates or set of plates or buyer's temporary license plate" to implement HB 718, which eliminated temporary tags in favor of license plates. A proposed amendment to §215.155(c) would require that for a wholesale transaction, a dealer may not issue a buyer's plate; rather, the purchaser must use its own dealer's plate to display on a purchased vehicle. If a general issue plate or set of plates is already assigned to the vehicle, the selling dealer must provide the general issue plates to the purchasing dealer. This proposed amendment is to ensure that an assigned license plate stays with the vehicle to which the license plate was originally assigned. The proposed amendments to §215.155 include striking §215.155(e) as unnecessary because it only addresses requirements for temporary tags, which HB 718 has eliminated. The remaining subsections of §215.155 would be re-lettered accordingly. Proposed amendments to current §215.155(f) would strike the current temporary tag fee and prescribe a new $10 fee for buyer's plates. Proposed amendments to current §215.155(f) would similarly strike the current temporary tag fee that governmental agencies may charge and prescribe a new $10 fee that governmental agencies may charge for buyer's plates. HB 718 amended Transportation Code §503.063(g) to eliminate the temporary tag fee and to require the department to prescribe a fee to be charged by the dealer to the buyer for license plates that are issued or assigned to the buyer upon vehicle purchase. The department has determined that a $10 fee will be sufficient to cover the expected costs associated with registering and processing the new license plates required by HB 718. Additionally, a proposed amendment to current §215.155(f)(1) would replace "electronic title system" with "designated electronic system" to better reflect current department procedure.

Proposed amendments to §215.156 would replace all references to temporary tags with references to buyer's license plates, to implement HB 718, which eliminated temporary tags in favor of license plates. The purpose of §215.156 is to describe the requirements for a dealer to provide a vehicle buyer with a buyer's license plate receipt. Proposed amendments requiring a dealer to print a receipt from the department's designated electronic system reflect that HB 718 will require dealers to print license plate receipts from a different electronic system. The proposed amendments to §215.156 would delete unnecessary language describing the process for printing temporary tag receipts, since HB 718 abolished temporary tags. Proposed amendments would also remove references to metal plates in favor of "vehicle registration insignia" to reflect new processes and standardize terminology across chapters. Additionally, proposed new §215.156(7) would require the receipt to include the procedure by which the vehicle registration insignia will be provided to the buyer, as is required under Transportation Code, §503.0631(d-1), as amended by HB 718. The proposed amendments to §215.156 would also delete unnecessary language and punctuation.

Proposed amendments to §215.157 would implement HB 718 by describing the process for a dealer to issue a license plate and a license plate receipt when internet access is not available by replacing the prior requirement for a dealer to print out an internet down tag with a requirement for a dealer to document the issuance of a buyer's general issue license plate and then enter that information in the license plate system not later than the close of the next business day. These proposed amendments are necessary to implement HB 718 and maintain the integrity of the data in the license plate database.

Proposed amendments to §215.158 would describe the general requirements for buyer's license plates necessary to implement HB 718. Proposed amendments to the title of §215.158 would add "for Buyer's License Plates" and delete an unnecessary reference to "Preprinted Internet-down Temporary Tag Numbers." Proposed amendments to §215.158 would delete language related to internet-down temporary tags, which are obsolete since HB 718 eliminated temporary tags, and replace it with language about license plates. Proposed amendments to §215.158(a) would also make nonsubstantive wording and punctuation changes and delete an unnecessary descriptive phrase for a governmental agency to improve readability and retain the dealer and governmental agency's responsibility for safekeeping of license plates and for prompt reporting of license plates that are lost, stolen, or destroyed. A proposed amendment to §215.158(a) would encourage a dealer or governmental agency to immediately report all stolen license plates to local law enforcement. This proposed amendment would give local law enforcement earlier notice, which may aid law enforcement in identifying and stopping related criminal activity more quickly than if the stolen license plate was solely reported in the department's electronic database. Proposed amendments to §215.158(b) would require a dealer to remove and void any previously assigned plates that cannot stay with the motor vehicle. Under the proposed amendment, the dealer must mark these license plates as void and destroy, recycle the void license plates with a metal recycler registered under Occupations Code, Chapter 1956, or return the void license plates to the department or a county tax assessor-collector. This is to prevent potential theft or fraud relating to plates that have been removed from a vehicle. These amendments are necessary to responsibly implement HB 718. Proposed amendments to §215.158(c) would require a dealer to return all buyer's license plates in their possession to the department within 10 days of closing the associated license or within 10 days of the depart-

ment revoking, canceling or closing the associated license, to reduce the risk of theft or fraudulent misuse of the plates. The remaining subsections of §215.158 are proposed for deletion as these subsections refer only to internet-down tags and are no longer necessary with the implementation of HB 718.

Proposed for repeal, §215.159 describes the requirements for converter's temporary tags, which will not exist when HB 718 is implemented, making §215.159 unnecessary.

Proposed amendments to §215.160(a) and §215.160(b) would replace the references to titles under Transportation Code, §501.100 with the words "issued a title" to clarify that if a dealer knows a motor vehicle has formerly been a salvage vehicle, they must disclose this fact, regardless of whether the motor vehicle is currently titled under Transportation Code, §501.100. The effective date for this section is proposed to be 20 days after the adoption is filed with the Texas Secretary of State.

Proposed new §215.162 would implement SB 224 by requiring dealers that repair a motor vehicle with a catalytic converter to comply with the statutory recordkeeping requirements in Occupations Code, Chapter 2305, Subchapter D, and to allow the department to inspect those records during business hours. The effective date for this section is proposed to be 20 days after the adoption is filed with the Texas Secretary of State.

Subchapter F. Lessors and Lease Facilitators

A proposed amendment to §215.178(a)(2) would simplify language for improved readability by changing "a request from a representative of the department" to "a department records request." Proposed amendments to §§215.178(c)(7)(C) and (D) and §215.178(c)(8) would replace references to the electronic title system with references to webDEALER, as defined in 43 TAC §217.71, relating to Automated and Web-Based Vehicle Registration and Title Systems, to provide additional context to the specific part of the electronic title system to which the section applies. A proposed amendment in §215.178(c)(8) would add an "a" before motor vehicle to correct sentence grammar. A proposed amendment to §215.178(g) would add an exception to those records that may be kept electronically for documents listed in subsection (c)(8) of this section, which are records that dealers are required to keep in webDEALER. The effective date for this section is proposed to be 20 days after the adoption is filed with the Texas Secretary of State.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Glenna Bowman, Chief Financial Officer, has determined that for each year of the first five years the rule will be in effect, there will be no significant fiscal impact to local governments as a result of the enforcement or administration of the proposal. With regard to state government, Ms. Bowman has determined that for each year of the first five years the rule will be in effect, the program will create costs to the department for implementation and ongoing administration, ranging from $13.5 million to $21.5 million per year for each of the first five years. However, Ms. Bowman has determined that for each year of the first five years the rule will be in effect, these costs will be offset by an increase in revenue to the department from the new plate fee of $10.

Monique Johnston, Director of the Motor Vehicle Division (MVD) and Corrie Thompson, Director of the Enforcement Division (ENF), have determined that there will be not be a measurable effect on local employment or the local economy as a result of the proposal because the overall number of motor vehicle sales will not be affected.

PUBLIC BENEFIT AND COST NOTE. Ms. Johnston and Ms. Thompson have also determined that, for each year of the first five years the new section is in effect, there are multiple public benefits anticipated because of the elimination of temporary tags and increased oversight of catalytic converter repairs and that certain applicants and license holders may incur costs to comply with the proposal. The department prioritized the public benefits associated with reducing fraud and related crime and improving public health and safety, while carefully considering potential costs to license holders consistent with board and department responsibilities.

Anticipated Public Benefits. The public benefits anticipated as a result of the proposal include limiting the criminal activity of a small subset of dealers who may fraudulently obtain and sell catalytic converters for profit, or obtain, sell, or issue license plates to persons seeking to engage in violent criminal activity, including armed robbery, human trafficking, and assaults on law enforcement, or to criminally operate uninsured and uninspected vehicles as a hazard to Texas motorists and the environment.

Anticipated Costs To Comply With The Proposal. Ms. Johnston and Ms. Thompson anticipate certain license holders may incur costs to comply with these proposed rules.

Proposed amendments to §215.102 and §215.133 may require applicants and license holders to provide more information in the application. While some applicants may be required to spend a few minutes more to complete an application, Ms. Johnston and Ms. Thompson have determined these costs will be offset by the reduced risk of applicants and holders incurring financial and criminal penalties due to noncompliance with Occupations Code, Chapter 2305, Subchapter D and may allow the department to educate applicants about areas where the applicants' business operations may not meet the requirements of the Occupations Code, prior to licensure. Importantly, this information allows the department to comply with the requirements of Occupations Code, Chapter 2305 which requires the department to enforce catalytic converter recordkeeping requirements consistent with the department's obligations to detect and deter fraud and prevent consumer harm.

In proposed new §215.122 and §215.162, a license holder that repairs a vehicle with a catalytic converter is required to comply with statutory recordkeeping requirements and to allow the department to inspect those records. Ms. Thompson expects that most license holders already maintain the required records in an existing system. However, if a license holder does not currently keep the required records, a license holder will be required to keep additional records and may do so in a paper record or in a spreadsheet using free software available on the internet. The department's civil penalty guidelines for license holders who violate statutory provisions range from $500 to $10,000 per violation. Ms. Thompson has determined that any recordkeeping cost will be offset by the reduced risk to these license holders incurring financial penalties and potential criminal liability under Occupations Code, Chapter 2305 due to noncompliance with laws and regulations and will benefit the public by preventing consumer harm associated with the criminal activity related to catalytic converters.

Proposed amendments to §215.138, relating to Dealer's License Plates, §215.147, relating to Export Sales, and §215.158, relating to General Requirements for Buyer's License Plates, require a dealer to permanently mark the front of a license plate with the word "void" or a large "X" if a dealer's temporary plate or a buyer's license plate is no longer valid for use. Department re-

search suggests that the cost of a permanent marker is $1.50 per marker. Proposed amendments to these rules also require a dealer to destroy a void buyer's license plate, recycle a void plate with a registered metal recycler, or return the void plate to the department, or to a county tax assessor-collector if the void license plate is a buyer's license plate. Aviation tin snips may be used to destroy a void license plate. Department research suggests that the cost of tin snips, which can cut metal, is approximately $20.00. A dealer or other license holder may choose to recycle void license plates. Department research suggests that the cost of doing so through a metal recycler will vary by locality and the availability of local recycling facilities, with some regions benefitting from free curbside-pickup recycling programs and others requiring license holders to expend transportation costs to take the plates to a recycling facility. Department research also suggests that scrap aluminum, such as voided license plates, is currently worth about $.50 per pound when sold to a metal recycler. Lastly, a dealer may return a void buyer's license plate to the department, including one of the regional service centers, or a county tax assessor-collector office, or mail a void plate to the department. Department research suggests that the average cost to mail a plate is $9.65. The proposed rules provide a license holder with multiple options for responsible disposal of void license plates and a license holder may choose which option is least expensive or most convenient based on the license holder's operation. Ms. Johnston and Ms. Thompson have reviewed the department research regarding the cost of marking and the options for destroying, recycling, or returning void license plates and have determined that these costs are reasonable and necessary to reduce the potential for fraudulent plate use and to protect the public, including law enforcement personnel.

Proposed amendments to §215.140, relating to Established and Permanent Place of Business Premises Requirements, and §215.150, relating to Dealer Authorization to Issue License Plates, require a dealer or wholesale motor vehicle auction to store license plates in a locked and secured room or closet, or one or more securely locked, substantially constructed safes or steel cabinets bolted or affixed to the floor or wall of sufficient size to store all license plates in the GDN holder's possession. The department expects that many current license holders already use a secured room, closet, safe, or steel cabinet to store valuable equipment or supplies, and therefore will incur no costs as a result of the proposed amendments. However, certain license holders may have to purchase secure lock for an existing room, closet, or steel cabinet. Department research suggests that the cost of a secure door lock is approximately $25.00 with approximately $30 in labor for installation, and the cost of a lock for steel cabinet is approximately $12.00. A license holder may also have to secure an existing safe or steel cabinet to a floor or wall; department research suggests that the cost of an anchoring kit for a safe is approximately $11.00 and the cost of hardware necessary to secure a steel cabinet to a wall or floor is approximately $30.00, while necessary labor costs for either installation would be approximately $50.00. If a license holder would like to construct a closet, department research suggests that the cost to build a closet would be approximately $3,000 including a locking door. Department license plate storage estimates suggest that an average license holder would be required to store approximately 75 to 250 plates including all dealer's and buyer's license plate types. If a license holder wishes to buy a substantially constructed safe that bolts to the floor or wall to hold that quantity of plates, department research suggests the cost is approximately $200, and that the cost of a substantially constructed steel cabinet is approximately $130.00 - $300.00, depending on the quantity of plates that the dealer needed to store securely. Ms. Johnston and Ms. Thompson have determined that these costs are necessary to protect license plates from being stolen and used to commit fraud and other crimes and to ensure that license plates are available for use by a license holder when a vehicle is sold.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. As required by Government Code §2006.002, the department has determined that this proposal may have an adverse economic effect or disproportionate economic impact on small or micro businesses. The department has determined that the proposed amendments will not have an adverse economic effect on rural communities because rural communities are exempt from the requirement to hold a GDN under Transportation Code §503.024.

The cost analysis in the Public Benefit and Cost Note section of this proposal determined that proposed amendments may result in additional costs for certain license holders. Based on data from the Comptroller and the Texas Workforce Commission, the department estimates that most license holders are small or micro-businesses. The department has tried to minimize costs to license holders. The new proposed requirements are designed to set minimum standards that will prevent license plate fraud and protect public health and safety and provide options that will allow a license holder to do so at a reasonable cost. These requirements do not include requirements that will cause a license holder to incur unnecessary or burdensome costs, such as employing additional persons.

Under Government Code §2006.002, the department must perform a regulatory flexibility analysis. The department considered the alternatives of not adopting amendments, exempting small and micro-business license holders from these amendments, and adopting a limited version of these amendments for small and micro-business applicants and license holders. The department rejects all three options. The department reviewed licensing records, including records for license holders who have been denied access to the temporary tag system, and determined that small and micro-business license holders are largely the bad actors perpetrating fraud. The department, after considering the purpose of the authorizing statutes, does not believe it is feasible to waive or limit the requirements of the proposed amendments for small or micro-business GDN dealers. Also, Government Code §2006.002(c-1) does not require the department to consider alternatives that might minimize possible adverse impacts on small businesses and micro-businesses if the alternatives would not be protective of the health and safety of the state.

TAKINGS IMPACT ASSESSMENT. The department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT. The department has determined that each year of the first five years the proposed new sections, amendments, and repeals are in effect, a government program would be created or eliminated. Implementation of the proposed new sections, amendments, and repeals will require the creation of new employee positions and will not eliminate existing employee positions. Implementation will not require an increase in future legislative appropriations to the department but will result in an increase in fees paid to the

department. The proposed new sections, amendments, and repeals create new regulations that govern the processes involved in the issuance of license plates in lieu of temporary tags; expand regulations that cover recordkeeping requirements for licensees and sanctions for failure to keep records or report lost, missing or stolen license plates; and repeal existing regulations that covered the procedures involved in the issuance of temporary tags, in addition to repealed provisions §§215.151, 215.153, 215.154 and 215.159. The proposed rules do not limit any existing regulations. Lastly, the proposed new sections, amendments, and repeals do not affect the number of individuals subject to the rule's applicability and will not affect this state's economy.

REQUEST FOR PUBLIC COMMENT.

If you want to comment on the proposal, submit your written comments by 5:00 p.m. Central Time (CST or CDT as applicable) on August 12, 2024. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §215.1, §215.2

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department proposes amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631 which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; §503.0633 which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §520.0071 which requires the board to adopt rules classifying deputies performing titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds that may be required by a county tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021 which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §§501.0041, 502.0021, 503.002, and 520.003; and Government Code, §2001.004 and §2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503. Transportation Code, §520.003 authorizes the department to adopt rules to administer Chapter 520.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These proposed amendments implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501-503, 520, and 1001-1005.

§215.1. Purpose and Scope.

Occupations Code, Chapters [~~Chapter~~] 2301 and 2305, and Transportation Code, Chapters 503, 504, 520, and 1001 -1005 require the Texas Department of Motor Vehicles to license and regulate the vehicle industry to ensure a sound system of distributing and selling vehicles; provide for compliance with manufacturers' warranties; and to prevent fraud, unfair practices, discrimination, impositions, and other abuses of the people of this state in connection with the distribution and sale of vehicles. This chapter describes licensing requirements and the rules governing the vehicle industry.

§215.2. Definitions; Conformity with Statutory Requirements.

(a) The definitions contained in Occupations Code, Chapters [~~Chapter~~] 2301 and 2305, and Transportation Code, Chapters 503, 520, and 1001-1005 govern this chapter. In the event of a conflict, the definition or procedure referenced in Occupations Code, Chapter 2301 controls.

(b) The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Board--The Board of the Texas Department of Motor Vehicles, including department staff to whom the board delegates a duty.

(2) Day--The word "day" refers to a calendar day.

(3) Director--The director of the division that regulates the distribution and sale of motor vehicles, including any department staff to whom the director delegates a duty assigned under this chapter.

(4) Employee--A natural person employed directly by the license holder for wages or a salary.

(5) [(4)] GDN--General distinguishing number, a license issued under Transportation Code, Chapter 503.

(6) [(5)] Governmental agency--A state agency other than the department, all local governmental agencies, and all agencies of the United States government, whether executive, legislative, or judicial.

(7) [(6)] Standard license plate--A motor vehicle license plate issued by the department to a license holder for use by the license holder that is not a personalized prestige dealer's license plate issued under Transportation Code §503.0615.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 28, 2024.

TRD-202402842
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Earliest possible date of adoption: August 11, 2024
For further information, please call: (512) 465-4160

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SUBCHAPTER C. FRANCHISED DEALERS, MANUFACTURERS, DISTRIBUTORS, AND CONVERTERS

43 TAC §§215.101, 215.102, 215.120 - 215.122

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department proposes amendments and new sections to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631 which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; §503.0633 which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §520.0071 which requires the board to adopt rules classifying deputies performing titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds that may be required by a county tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021 which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §§501.0041, 502.0021, and 503.002; and Government Code, §2001.004 and 2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These proposed new sections and amendments implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501-503, 520, and 1001-1005.

§215.101. Purpose and Scope.

This subchapter implements Occupations Code, Chapters [~~Chapter~~] 2301 and 2305, and Transportation Code, Chapters 503, 504, 520, and 1001 - 1005, and applies to franchised dealers, manufacturers, distributors, and converters.

§215.102. Application Requirements.

(a) No person may engage in business, serve in the capacity of, or act as a manufacturer, distributor, converter, or franchised dealer in Texas unless that person holds a license.

(b) A license application must be on a form prescribed by the department and properly completed by the applicant. A license application must include all required information, supporting documents, and fees and must be submitted to the department electronically in the licensing system designated by the department.

(c) A license holder renewing or amending its license must verify current license information, provide related information and documents for any new license requirements or changes to the license, and pay required fees including any outstanding civil penalties owed the department under a final order.

(d) An applicant for a new license must register for an account in the department-designated licensing system by selecting the licensing system icon on the dealer page of the department website. An applicant must designate the account administrator and provide the name

and email address for that person, and provide the business telephone number, name, business type, and social security number or employer identification number, as applicable. The applicant's licensing account administrator must be an owner, officer, manager, or bona fide employee.

(e) Once registered, an applicant may apply for a new license and must provide the following:

(1) Required information:

(A) type of license requested;

(B) business information, including the name, physical and mailing addresses, telephone number, Secretary of State file number (as applicable), and website address as applicable;

(C) contact name, email address, and telephone number of the person submitting the application;

(D) contact name, email address, and telephone number of a person who can provide information about business operations and the motor vehicle products or services offered;

(E) the name, social security number, date of birth, identity document information, and ownership percentage for each owner, partner, member, beneficiary, or principal if the applicant is not a publicly traded company;

(F) the name, social security number, date of birth, and identity document information for each officer, director, manager, trustee, or other representative authorized to act on behalf of the applicant if the applicant is owned in full or in part by a legal entity;

(G) the name, employer identification number, ownership percentage, and non-profit or publicly traded status for each legal entity that owns the applicant in full or in part;

(H) criminal history record information under the laws of Texas, another state in the United States, the United States, and any foreign jurisdiction for each person listed in the application, including offense description, date, and location;

(I) military service status;

(J) licensing history required to evaluate fitness for licensure under §215.89 of this title (relating to Fitness);

(K) if applying for a manufacturer's, distributor's, or converter's license:

(i) financial resources, business integrity and experience, facilities and personnel for serving franchised dealers;

(ii) a description of the business model or business process and product and services used or offered sufficient to allow the department to determine if the license type applied for is appropriate under Texas law; [~~and~~]

(iii) number of standard license plates requested; and[.]

(iv) whether the applicant repairs a motor vehicle with a catalytic converter in Texas, and if so, the physical address where the repair is performed.

(L) if applying for a manufacturer's or distributor's license:

(i) if the applicant or any entity controlled by the applicant owns an interest in a Texas motor vehicle dealer or dealership, controls a Texas dealer or dealership, or acts in the capacity of a Texas dealer;

(ii) a statement regarding the manufacturer's compliance with Occupations Code Chapter 2301, Subchapter I and §§2301.451-2301.476; and

(iii) if a franchise agreement for each line-make being applied for exists which states the obligations of a Texas franchised dealer to the applicant and the obligations of the applicant to the Texas franchised dealer.

(M) if applying for a manufacturer's license, the line-make information including the world manufacturer identifier assigned by the National Highway Traffic Safety Administration, line-make name, and vehicle type;

(N) if applying for a distributor's license:

(i) the manufacturer for whom the distributor will act;

(ii) whether the manufacturer is licensed in Texas;

(iii) the person in this state who is responsible for compliance with the warranty covering the motor vehicles to be sold; and

(iv) the terms of the contract under which the distributor will act for the manufacturer.

(O) if applying for a converter's license:

(i) a name and description for each conversion package; and

(ii) the manufacturer or distributor and line-make of the underlying new motor vehicle chassis to be converted.

(P) if applying for a franchised dealer's license:

(i) reason for the new application;

(ii) dealership location on a system-generated map;

(iii) whether the dealership is under construction and expected completion date;

(iv) information about the performance of sales or warranty services at the location; and

(v) information necessary to obtain a franchised dealer GDN under §215.133 of this title (relating to GDN Application Requirements for a Dealer or a Wholesale Motor Vehicle Auction).

(Q) signed Certificate of Responsibility, which is a form provided by the department; and

(R) any other information required by the department to evaluate the application under current law and board rules.

(2) A legible and accurate electronic image of each applicable required document:

(A) the certificate of filing, certificate of incorporation, or certificate of registration on file with the Secretary of State, as applicable;

(B) each assumed name certificate on file with the Secretary of State or county clerk;

(C) one of the following unexpired identity documents for each natural person listed in the application:

(i) driver license;

(ii) Texas Identification Card issued by the Texas Department of Public Safety under Transportation Code, Chapter 521, Subchapter E;

(iii) license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

(iv) passport; or

(v) United States armed forces identification.

(D) if applying for a manufacturer's, distributor's, or converter's license, a written description of the business model or business process and brochures, photos, or other documents describing products and services sufficient to allow the department to identify a motor vehicle product type and the appropriate license required under Texas law;

(E) if applying for a manufacturer's or distributor's license:

(i) a list of each franchised dealer in Texas including the dealer's name and physical address, or if motor vehicle sales or offers to sell to Texas residents will solely be over the internet, a list of each out-of-state dealer or person authorized by the manufacturer or distributor to sell a new motor vehicle online to a Texas resident including the dealer's or person's name, physical address, and license number issued by the state in which the dealer or person is located; and

(ii) a list of motor vehicle product line-makes manufactured or distributed for sale.

(F) if applying for a manufacturer's license:

(i) a list of authorized distributors or representatives; and

(ii) a franchised dealer's preparation and delivery obligations before delivery of a new vehicle to a retail purchaser and the schedule of compensation to be paid to the franchised dealer;

(G) if applying for a distributor's license, either:

(i) pages of the executed distributor agreement containing at minimum the following:

(I) the legal business name of each party;

(II) authorized signature of each party;

(III) distribution territory;

(IV) distribution agreement effective date and end date, or written confirmation from the distributor and manufacturer that the distribution agreement is expected to be in effect for the entire license period;

(V) physical location, mailing address, and email address of each party;

(VI) distributor responsibilities under the agreement related to warranty matters under Occupations Code, Chapter 2301, and franchised dealer matters under Occupations Code, Chapter 2301, Subchapter H, Dealers, Subchapter I, Warranties: Reimbursement of Dealer, Subchapter J, Manufacturers, Distributors, and Representative, and Subchapter K, Mediation Between Dealer and Manufacturer or Distributor;

(VII) party or person responsible for providing warranty services; and

(VIII) motor vehicle line-makes and vehicle types included in the agreement; or

(ii) a completed department-provided questionnaire containing the information required in clause (i) signed by the applicant and the manufacturer as true and complete. An authorized representative for the manufacturer may sign the questionnaire, however, the applicant or applicant's representative may not sign the questionnaire on behalf of a manufacturer.

(H) if applying for a franchised dealer's license, pages of the executed franchise agreement containing at minimum the following:

(i) the legal business name of each party;

(ii) authorized signature of each party;

(iii) authorized dealership location;

(iv) list of motor vehicle line-makes and vehicle types to be sold or serviced; and

(v) a department Evidence of Relocation form signed by the manufacturer or distributor, if applicable; and

(I) any other documents required by the department to evaluate the application under current law and board rules.

(3) Required fees:

(A) the license fee as prescribed by law; and

(B) the fee as prescribed by law for each plate requested by the applicant.

(f) An applicant operating under a name other than the applicant shall use the name under which the applicant is authorized to do business, as filed with the Secretary of State or county clerk, and the assumed name of such legal entity shall be recorded by the applicant on the application using the letters "DBA." The applicant may not use a name or assumed name that may be confused with or is similar to that of a governmental entity or that is otherwise deceptive or misleading to the public.

(g) A manufacturer or distributor may add a new line-make to an existing license during the license period by submitting a license amendment application and providing brochures, photos, or other documents describing the new line-make sufficient to allow the department to identify the line-make and vehicle product type. A license amendment to add a line-make to a manufacturer's or distributor's license must be approved by the department before the new line-make may be added to a franchised dealer's license.

§215.120. Standard License Plates.

(a) A manufacturer, distributor, or converter may apply for a manufacturer or converter standard license plate for use on a new unregistered vehicle of the same vehicle type assembled or modified in accordance with Transportation Code §503.064 or §503.0618, as applicable:

(1) when applying for a new or renewal license, or

(2) by submitting a standard license plate request application electronically in the system designated by the department.

(b) A manufacturer may use a manufacturer's standard license plate to test a prototype motor vehicle on a public street or highway including a commercial motor vehicle prototype designed to carry a load. A manufacturer's standard license plate may not be used on a commercial motor vehicle prototype or new commercial motor vehicle to carry a load for which the manufacturer or other person receives compensation.

(c) A manufacturer, distributor, or converter shall attach a standard license plate to the rear of a vehicle in accordance with §217.27 of this title (relating to Vehicle Registration Insignia).

(d) A manufacturer, distributor, or converter shall maintain a record of each standard license plate issued to the manufacturer, distributor, or converter by the department in the department-designated system. The license plate record must contain:

(1) the license plate number;

(2) the year and make of the vehicle to which the license plate is affixed;

(3) the VIN of the vehicle, if one has been assigned; and

(4) the name of the person in control of the license plate.

(e) If a manufacturer, distributor, or converter cannot account for a standard license plate or a standard license plate is damaged, the manufacturer, distributor, or converter shall:

(1) document the license plate as "void" in the department-designated system [~~license plate record in subsection (d)~~]; and

(2) within three days of discovering that the license plate is missing or damaged, report the license plate as lost, stolen, or damaged electronically in the system designated by the department; and

(3) if found after reported missing, cease use of the license plate.

(f) A standard license plate is no longer valid for use after the manufacturer, distributor, or converter reports to the department that the license plate is lost, stolen, or damaged. A manufacturer, distributor, or converter must render a void license plate unusable by permanently marking the front of the plate with the word "VOID" or a large "X" and once marked, shall destroy or recycle the license plate, or return the license plate to the department within 10 days. A license holder is also encouraged to immediately alert law enforcement by reporting a stolen license plate to a local law enforcement agency.

~~[(g) The license holder's license plate record must be available for inspection and copying by the department during normal business hours or be available to submit electronically to the department upon request.]~~

(g) [~~(h)~~] In evaluating requests for additional standard license plates, the department shall consider the business justification provided by a license holder including the following:

(1) the number of vehicles assembled or modified;

(2) the highest number of motor vehicles in inventory in the prior 12 months;

(3) the size and type of business;

(4) how the license holder typically uses standard licenses plates;

(5) the license holder's record of tracking and reporting missing or damaged license plates to the department; and

(6) any other factor the Department in its discretion deems necessary to support the number of license plates requested.

(h) [~~(i)~~] a license holder shall return a department-issued license plate to the department within 10 days of the license holder closing the associated license or the associated license being revoked, canceled, or closed by the department.

§215.121. Sanctions.

(a) The board or department may take the following actions against a license applicant, a license holder, or a person engaged in business for which a license is required:

(1) deny an application;

(2) revoke a license;

(3) suspend a license;

(4) assess a civil penalty;

(5) issue a cease and desist order; or

(6) take other authorized action.

(b) The board or department may take action described in subsection (a) of this section if a license applicant, a license holder, or a person engaged in business for which a license is required:

(1) fails to maintain records required under this chapter;

(2) refuses or fails within 15 days to comply with a request for records made by a representative of the department;

(3) sells or offers to sell a motor vehicle to a retail purchaser other than through a licensed or authorized dealer;

(4) fails to submit a license amendment application in the electronic licensing system designated by the department to notify the department of a change of the license holder's physical address, mailing address, telephone number, or email address within 10 days of the change;

(5) fails to timely submit a license amendment application in the electronic licensing system designated by the department to notify the department of a license holder's business or assumed name change, deletion of a line-make, or management or ownership change;

(6) fails to notify the department or pay or reimburse a franchised dealer as required by law;

(7) misuses or fails to display a license plate as required by law, or fails to report a lost, stolen, or damaged license plate within the time designated by rule;

(8) is a manufacturer or distributor and fails to provide a manufacturer's certificate for a new vehicle;

(9) fails to remain regularly and actively engaged in the business of manufacturing, assembling, or modifying a new motor vehicle of the type and line make for which a license has been issued by the department;

(10) violates a provision of Occupations Code, Chapter 2301; Transportation Code Chapters 501-503 or 1001-1005; a board order or rule; or a regulation of the department relating to the manufacture, assembly, sale, lease, distribution, financing, or insuring of vehicles, including advertising rules under Subchapter F of this chapter (relating to Advertising);

(11) is convicted of an offense that directly relates to the duties or responsibilities of the occupation in accordance with §211.3 of this title (relating to Criminal Offense Guidelines);

(12) is determined by the board or department, in accordance with §215.89 of this title (relating to Fitness), to be unfit to hold a license;

(13) omits information or makes a material misrepresentation in any application or other documentation filed with the department including providing a false or forged identity document or a false or forged photograph, electronic image, or other document;

(14) fails to remit payment as ordered for a civil penalty assessed by the board or department;

(15) violates any state or federal law or regulation relating to the manufacture, distribution, modification, or sale of a motor vehicle;

(16) fails to issue a refund as ordered by the board or department; [or]

(17) fails to participate in statutorily required mediation without good cause; or[.]

(18) fails to keep or maintain records required under Occupations Code, Chapter 2305, Subchapter D.

§215.122. Catalytic Converter Record Requirements.

A manufacturer, distributor, or converter that repairs a motor vehicle with a catalytic converter shall:

(1) comply with the recordkeeping requirements in Occupations Code, Chapter 2305, Subchapter D; and

(2) allow the department to inspect these records during business hours.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER D. GENERAL DISTINGUISHING NUMBERS AND IN-TRANSIT LICENSES

43 TAC §§215.131 - 215.133, 215.138, 215.140, 215.141, 215.143, 215.144, 215.147, 215.148, 215.150 - 215.152, 215.154 - 215.158, 215.160, 215.162

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department proposes amendments and new sections to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631 which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; §503.0633 which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §504.0011 which allows the board to adopt rules to implement and administer Chapter 504; Transportation Code, §520.0071 which requires the board to adopt rules classifying deputies performing titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds that may be required by a county tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021 which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §§501.0041, 502.0021, 503.002, 504.0011, and 520.003; and Government Code, §2001.004 and §2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503. Transportation Code, §504.0011 authorizes the board to adopt rules to implement and administer Chapter 504. Transportation Code, §520.003 authorizes the department to adopt rules to administer Chapter 520.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These proposed new sections and amendments implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501 - 504, 520, and 1001-1005.

§215.131. Purpose and Scope.

This subchapter implements Transportation Code, Chapters 503, 504, 520, and 1001-1005, and Occupations Code, Chapters [Chapter] 2301 and 2305, and applies to general distinguishing numbers and drive-away operator in-transit licenses issued by the department.

§215.132. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Barrier--A material object or set of objects that separates or demarcates.

(2) Buyer's license plate--A general issue license plate or set of license plates issued by a dealer to a vehicle buyer under Transportation Code, §503.063 for a vehicle that will be titled and registered in Texas. This term also includes a buyer's provisional license plate

that a dealer issues when the general issue license plate or set of license plates for that vehicle or motor vehicle type is not in a dealer's license plate inventory at the time of retail sale.

(3) Buyer's temporary license plate--A temporary license plate issued by a dealer to a non-resident vehicle buyer for a vehicle that will be titled and registered out-of-state in accordance with Transportation Code, §503.063(i).

(4) [~~(2)~~] Consignment sale--The owner-authorized sale of a motor vehicle by a person other than the owner.

(5) Dealer's temporary license plate--A license plate that a dealer may purchase and use for the purposes allowed under Transportation Code, §503.062.

(6) [~~(3)~~] House trailer--A nonmotorized vehicle designed for human habitation and for carrying persons and property on its own structure and for being drawn by a motor vehicle. A house trailer does not include manufactured housing. A towable recreational vehicle, as defined by Occupations Code, §2301.002, is included in the terms "house trailer" or "travel trailer."

(7) [~~(4)~~] Municipality--As defined according to the Local Government Code, Chapter 1.

(8) [~~(5)~~] Person--Has the meaning assigned by Occupations Code, §2301.002.

(9) [~~(6)~~] Sale--With regard to a specific vehicle, the transfer of possession of that vehicle to a purchaser for consideration.

[~~(7) Temporary tag--A buyer's temporary tag, converter's temporary tag, or dealer's temporary tag as described under Transportation Code, Chapter 503.~~]

(10) [~~(8)~~] Towable recreational vehicle--Has the same meaning as "house trailer" defined by this section.

(11) [~~(9)~~] Travel Trailer--Has the same meaning as "house trailer" defined by this section.

(12) [~~(10)~~] Vehicle--Has the meaning assigned by Transportation Code, §503.001.

(13) [~~(11)~~] VIN--Vehicle identification number.

§215.133. GDN Application Requirements for a Dealer or a Wholesale Motor Vehicle Auction.

(a) No person may engage in business as a dealer or as a wholesale motor vehicle auction unless that person has a valid GDN assigned by the department for each location from which the person engages in business. A dealer must also hold a GDN for a consignment location, unless the consignment location is a wholesale motor vehicle auction.

(b) Subsection (a) of this section does not apply to a person exempt from the requirement to obtain a GDN under Transportation Code §503.024.

(c) A GDN dealer or wholesale motor vehicle auction application must be on a form prescribed by the department and properly completed by the applicant as required under §215.83 of this title (relating to License Applications, Amendments, or Renewals). A GDN dealer or wholesale motor vehicle auction application must include all required information, required supporting documents, and required fees and must be submitted to the department electronically in the licensing system designated by the department. A GDN dealer or wholesale motor vehicle auction GDN holder renewing or amending its GDN must verify current license information, provide related information and documents for any new requirements or changes to the GDN, and pay required fees including any outstanding civil penalties owed the department under a final order. An applicant for a new dealer or wholesale motor vehicle auction GDN must provide the following:

(1) Required information:

(A) type of GDN requested;

(B) business information, including the name, physical and mailing addresses, telephone number, Secretary of State file number (as applicable), and website address, as applicable;

(C) contact name, email address, and telephone number of the person submitting the application;

(D) contact name, email address, and telephone number of a person who can provide information about business operations and the motor vehicle products or services offered;

(E) the name, social security number, date of birth, identity document information, and ownership percentage for each owner, partner, member, or principal if the applicant is not a publicly traded company;

(F) the name, social security number, date of birth, and identity document information for each officer, director, manager, trustee, or other representative authorized to act on behalf of the applicant if the applicant is owned in full or in part by a legal entity;

(G) the name, employer identification number, ownership percentage, and non-profit or publicly traded status for each legal entity that owns the applicant in full or in part;

(H) the name, social security number, date of birth, and identity document information of at least one manager or other bona fide employee who will be present at the established and permanent place of business if the owner is out of state or will not be present during business hours at the established and permanent place of business in Texas;

(I) if a dealer, the name, telephone number, and business email address of the [~~temporary tag database~~] account administrator for the temporary tag database prior to July 1, 2025, or for the license plate system on or after July 1, 2025, designated by the applicant who must be an owner or representative listed in the application;

(J) criminal history record information under the laws of Texas, another state in the United States, the United States, and any foreign jurisdiction for each person listed in the application, including offense description, date, and location;

(K) military service status;

(L) licensing history required to evaluate fitness for licensure under §215.89 of this title (relating to Fitness);

(M) information about the business location and business premises, including whether the applicant will operate as a salvage vehicle dealer at the location;

(N) history of insolvency, including outstanding or unpaid debts, judgments, or liens, unless the debt was discharged under 11 U.S.C. §§101 et seq. (Bankruptcy Act) or is pending resolution under a case filed under the Bankruptcy Act;

(O) signed Certification of Responsibility, which is a form provided by the department; and

(P) if a dealer, whether the applicant repairs a motor vehicle with a catalytic converter in Texas, and if so, the physical address where the repair is performed; and

(Q) [~~(P)~~] any other information required by the department to evaluate the application under current law and board rules.

(2) A legible and accurate electronic image of each applicable required document:

(A) proof of a surety bond if required under §215.137 of this title (relating to Surety Bond);

(B) the certificate of filing, certificate of incorporation, or certificate of registration on file with the Secretary of State, as applicable;

(C) each assumed name certificate on file with the Secretary of State or county clerk;

(D) at least one of the following unexpired identity documents for each natural person listed in the application:

(i) driver license;

(ii) Texas Identification Card issued by the Texas Department of Public Safety under Transportation Code, Chapter 521, Subchapter E;

(iii) license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

(iv) passport; or

(v) United States military identification card.

(E) a certificate of occupancy, certificate of compliance, or other official documentation confirming the business location complies with municipal ordinances, including zoning, occupancy, or other requirements for a vehicle business;

(F) documents proving business premises ownership, or lease or sublease agreement for the license period;

(G) business premises photos and a notarized affidavit certifying that all premises requirements in §215.140 of this title (relating to Established and Permanent Place of Business Premises Requirements) are met and will be maintained during the license period;

(H) evidence of franchise if applying for a franchised motor vehicle dealer GDN;

(I) proof of completion of the dealer education and training required under Transportation Code §503.0296, if applicable; [~~and~~]

(J) proof of completion of webDEALER training conducted by the department under §217.174(g) of this title (relating to webDEALER Access, Use, and Training); and

(K) [~~(J)~~] any other documents required by the department to evaluate the application under current law and board rules.

(3) Required fees:

(A) the fee for each type of license requested as prescribed by law; and

(B) the fee, including applicable taxes, for each dealer's standard [~~dealer~~] plate, and dealer's temporary license plate on or after July 1, 2025, requested by the applicant as prescribed by law.

(d) An applicant for a dealer or wholesale auction GDN must also comply with fingerprint requirements in §211.6 of this title (relating to Fingerprint Requirements for Designated License Types), as applicable.

(e) An applicant for a GDN operating under a name other than the applicant's business name shall use the assumed name under which the applicant is authorized to do business, as filed with the Secretary of State or county clerk, and the assumed name of such legal entity shall be recorded by the applicant on the application using the letters "DBA." The applicant may not use a name or assumed name that may be confused with or is similar to that of a governmental entity or that is otherwise deceptive or misleading to the public.

(f) A wholesale motor vehicle dealer GDN holder may sell or exchange vehicles with licensed or authorized dealers only. A wholesale motor vehicle dealer GDN holder may not sell or exchange vehicles at retail.

(g) An independent mobility motor vehicle dealer shall retain and produce for inspection all records relating to the license requirements under Occupations Code, §2301.002(17-b) and all information and records required under Transportation Code §503.0295.

(h) In evaluating a new or renewal GDN application or an application for a new GDN location, the department may require a site visit to determine if the business location meets the requirements in §215.140. The department will require the applicant or GDN holder to provide a notarized affidavit confirming that all premises requirements are met and will be maintained during the license period.

(i) A person holding an independent motor vehicle GDN does not have to hold a salvage vehicle dealer's license to:

(1) act as a salvage vehicle dealer or rebuilder; or

(2) store or display a motor vehicle as an agent or escrow agent of an insurance company.

(j) A person holding an independent motor vehicle GDN and performing salvage activities under subsection (i) must apply for a National Motor Vehicle Title Information System (NMVTIS) identification number and provide the number to the department in the GDN application.

(k) To be eligible for an independent motor vehicle GDN, a person must complete dealer education and training specified by the department, except as provided in this subsection:

(1) once a person has completed the required dealer education and training, the person will not have to retake the dealer education and training for subsequent GDN renewals, but may be required to provide proof of dealer education and training completion as part of the GDN renewal process;

(2) a person holding an independent motor vehicle GDN for at least 10 years as of September 1, 2019, is exempt from the dealer education and training requirement; and.

(3) a military service member, military spouse, or military veteran will receive appropriate credit for prior training, education, and professional experience and may be exempted from the dealer education and training requirement.

§215.138. Use of Dealer's License Plates.

(a) A dealer's standard, personalized prestige, or temporary [~~or personalized prestige~~] license plate must be attached to the rear of a vehicle in accordance with §217.27 of this title (relating to Vehicle Registration Insignia).

(b) A copy of the receipt for a dealer's standard, personalized prestige, or temporary [~~or personalized prestige~~] license plate issued by the department should be carried in the vehicle to present to law enforcement personnel upon request.

(c) A dealer's standard, personalized prestige, or temporary [~~or personalized prestige~~] license plate may not be displayed on:

(1) a laden commercial vehicle being operated or moved on the public streets or highways; [~~or~~]

(2) the dealer's service or work vehicle, except as provided by Transportation Code, §503.068(b-1);[.]

(3) a golf cart as defined under Transportation Code Chapter 551; or

(4) an off-highway vehicle as defined under Transportation Code Chapter 551A.

(d) For purposes of this section, a dealer's service or work vehicle includes:

(1) a vehicle used for towing or transporting another vehicle;

(2) a vehicle, including a light truck, used in connection with the operation of the dealer's shops or parts department;

(3) a courtesy car on which a courtesy car sign is displayed;

(4) a rental or lease vehicle; and

(5) a boat trailer owned by a dealer or manufacturer that is used to transport more than one boat.

(e) For purposes of this section, a light truck as defined by Transportation Code, §541.201, is not considered a laden commercial vehicle when it is:

(1) mounted with a camper unit; or

(2) towing a trailer for recreational purposes.

(f) A dealer's standard, personalized prestige, or temporary [~~or personalized prestige~~] license plate may be displayed only on the type of vehicle for which the GDN is issued and for which a dealer is licensed to sell. A nonfranchised dealer may not display a dealer's standard or personalized prestige license plate on a new motor vehicle.

(g) A dealer's standard or personalized prestige license plate may be displayed only on a vehicle that has a valid inspection in accordance with Transportation Code, Chapter 548.

(h) A dealer shall maintain in an electronic license plate system designated by the department a record of each dealer's standard, [~~or~~] personalized prestige, or temporary license plate issued by the department to that dealer. The license plate record must contain:

(1) the license plate number;

(2) the year and make of the vehicle to which the dealer's license plate is affixed;

(3) the VIN of the vehicle; and

(4) the name of the person in control of the vehicle or license plate.

(i) If a dealer cannot account for a dealer's standard or personalized prestige license plate that the department issued to that dealer, the dealer shall:

(1) document the dealer's license plate as "void" in the dealer's license plate record;

(2) within three days of discovering that the dealer's license plate is missing or damaged, report the dealer's license plate as lost, stolen, or damaged in the electronic system designated by the department; and

(3) if found, cease use of the dealer's license plate.

(j) A dealer's standard, personalized prestige, or temporary [~~or personalized prestige~~] license plate is no longer valid for use after the dealer reports to the department that the dealer's license plate is lost, stolen, or damaged. A dealer is also encouraged to immediately alert law enforcement by reporting a stolen license plate to a local law enforcement agency. A dealer shall:

(1) render a void plate unusable by permanently marking the front of the plate with the word "VOID" or a large "X"; and

(2) destroy or recycle the license plate or return the license plate to the department within 10 days.

[~~(k) A dealer's license plate record must be available for inspection and copying by the department during normal business hours or be available to submit electronically to the department upon request.~~]

(k) [~~(l)~~] A dealer shall return a department-issued license plate, sticker, or receipt to the department within 10 days of the dealer closing the associated license or the department revoking or canceling the license.

(l) A wholesale motor vehicle auction GDN holder that also holds a dealer GDN may display a dealer's temporary license plate assigned to that dealer GDN on a vehicle that is being transported to or from the licensed auction location.

§215.140. Established and Permanent Place of Business Premises Requirements.

(a) A dealer must meet the following requirements at each licensed location and maintain the requirements during the term of the license. If multiple dealers are licensed at a location, each dealer must maintain the following requirements during the entire term of the license.

(1) Business hours for retail dealers.

(A) A retail dealer's office must be open at least four days per week for at least four consecutive hours per day and may not be open solely by appointment.

(B) The retail dealer's business hours for each day of the week must be posted at the main entrance of the retail dealer's office in a manner and location that is accessible to the public. The owner or a bona fide employee of the retail dealer shall be at the retail dealer's licensed location during the posted business hours for the purposes of buying, selling, exchanging, or leasing vehicles. If the owner or a bona fide employee is not available to conduct business during the retail dealer's posted business hours due to special circumstances or emergencies, a separate sign must be posted indicating the date and time the retail dealer will resume operations. Regardless of the retail dealer's business hours, the retail dealer's telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a message during these hours.

(2) Business hours for wholesale motor vehicle dealers. A dealer that holds only a wholesale motor vehicle dealer's GDN must post its business hours at the main entrance of the wholesale motor vehicle dealer's office in a manner and location that is accessible to the public. A wholesale motor vehicle dealer or bona fide employee shall be at the wholesale motor vehicle dealer's licensed location at least two weekdays per week for at least two consecutive hours per day. A wholesale motor vehicle dealer may not be open solely by appointment. Regardless of the wholesale motor vehicle dealer's business hours, the wholesale motor vehicle dealer's telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a message during these hours.

(3) Business sign requirements for retail dealers.

(A) A retail dealer must display a conspicuous, permanent sign with letters at least six inches in height showing the retail dealer's business name or assumed name substantially similar to the name reflected on the retail dealer's GDN under which the retail dealer conducts business. A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main entrance of the business office. A business sign is considered permanent only if it is made of durable, weather-resistant material.

(B) The sign must be permanently mounted at the physical address listed on the application for the retail dealer's GDN. A business sign is considered permanently mounted if bolted to an exterior building wall or bolted or welded to a dedicated sign pole or sign support permanently installed in the ground.

(C) A retail dealer may use a temporary sign or banner if that retail dealer can show proof that a sign that meets the requirements of this paragraph has been ordered and provides a written statement that the sign will be promptly and permanently mounted upon delivery.

(D) A retail dealer is responsible for ensuring that the business sign complies with municipal ordinances, and that any lease signage requirements are consistent with the signage requirements in this paragraph.

(4) Business sign requirements for wholesale motor vehicle dealers.

(A) Exterior Sign

(i) A wholesale motor vehicle dealer must display a conspicuous, permanent sign with letters at least six inches in height showing the wholesale motor vehicle dealer's business name or assumed name substantially similar to the name reflected on the wholesale motor vehicle dealer's GDN under which the wholesale motor vehicle dealer conducts business. Effective September 1, 2023, the sign must also include the statement that "Purchasers must be Licensed Dealers" in letters at least three inches in height. A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main entrance of the business office. A business sign is considered permanent only if it is made of durable, weather-resistant material.

(ii) The sign must be permanently mounted on the business property at the physical address listed on the application. A business sign is considered permanently mounted if bolted to an exterior building wall or bolted or welded to a dedicated sign pole or sign support permanently installed in the ground. A wholesale motor vehicle dealer may use a temporary exterior sign or banner if the wholesale motor vehicle dealer can show proof that a sign that meets the requirements of this paragraph has been ordered and provides a written statement that the sign will be promptly and permanently mounted upon delivery.

(B) Interior Sign

(i) If the wholesale motor vehicle dealer's office is located in an office building with one or more other businesses and an outside sign is not permitted by the property owner, a conspicuous permanent business sign permanently mounted on or beside the main door to the wholesale motor vehicle dealer's office with letters at least two inches in height is acceptable. Effective September 1, 2023, the sign must also include the statement that "Purchasers must be Licensed Dealers" in letters at least one inch in height.

(ii) An interior business sign is considered conspicuous if it is easily visible to the public within 10 feet of the main entrance of the wholesale motor vehicle dealer's office. An interior sign is considered permanent if made from durable material and has lettering that cannot be changed. An interior sign is considered permanently mounted if bolted or otherwise permanently affixed to the main door or nearby wall. A wholesale motor vehicle dealer may use a temporary interior sign or banner if the wholesale motor vehicle dealer can show proof that a sign that meets the requirements of this paragraph has been ordered and provides a written statement that the sign will be promptly and permanently mounted upon delivery.

(C) A wholesale motor vehicle dealer is responsible for ensuring that the business sign complies with municipal ordinances and that any lease signage requirements are consistent with the signage requirements in this paragraph.

(5) Office requirements for a retail dealer and a wholesale motor vehicle dealer.

(A) A dealer's office must be located in a building with a permanent roof and connecting exterior walls on all sides.

(B) A dealer's office must comply with all applicable municipal ordinances, including municipal zoning ordinances. The dealer is responsible for obtaining a certificate of occupancy, certificate of compliance, or other required document issued by a municipal government to show compliance, including a new certificate or document when the building is altered or remodeled, or when the building use changes.

(C) A dealer's office may not be located in a residence, apartment, hotel, motel, rooming house, or any room or building not open to the public.

(D) A dealer's office may not be located in a restaurant, gas station, or convenience store, unless the office has a separate entrance door that does not require a dealer's customer to pass through the other business.

(E) A dealer's office may not be virtual or provided by a subscription for office space or office services. Access to an office space or office services is not considered an established and permanent location.

(F) The physical address of the dealer's office must be in Texas and recognized by the U.S. Postal Service, be capable of receiving U.S. mail, and have an assigned emergency services property address. The department will not mail a dealer's or buyer's license plate to an out-of-state address and will only mail or deliver a license plate to a dealer's physical location.

(G) A portable-type office building may qualify as an office only if the building meets the requirements of this section and is not a readily moveable trailer or other vehicle.

(H) The dealer's office space must:

(i) include at least 100 square feet of interior floor space, exclusive of hallways, closets, or restrooms;

(ii) have a minimum seven-foot-high ceiling;

(iii) accommodate required office equipment; and

(iv) allow a dealer and customer to safely access the office and conduct business in private while seated.

(6) Required office equipment for a retail dealer and a wholesale motor vehicle dealer. At a minimum, a dealer's office must be equipped with:

(A) a desk;

(B) two chairs;

(C) internet access; [~~and~~]

(D) a working telephone number listed in the business name or assumed name under which the dealer conducts business; and[.]

(E) a locked and secured room or closet or at least one securely locked, substantially constructed safe or steel cabinet bolted or affixed to the floor or wall in such a way that the safe or steel cabinet cannot be readily removed and of sufficient size to store all dealer's and buyer's license plates in a dealer's possession including both assigned plates for vehicles in inventory and unissued buyer's license plates.

(7) Number of retail dealers in one building. Not more than four retail dealers may be located in the same building. Each retail dealer located in the same building must meet the requirements of this section.

(8) Number of wholesale motor vehicle dealers in one office building. Not more than eight wholesale motor vehicle dealers may be located in the same office building. Each wholesale motor vehicle dealer located in the same office building must meet the requirements of this section.

(9) Office sharing prohibition for retail dealers and wholesale motor vehicle dealers. Unless otherwise authorized by the Transportation Code, a retail dealer and a wholesale motor vehicle dealer licensed after September 1, 1999, may not be located in the same building.

(10) Dealer housed with other business.

(A) If a person conducts business as a dealer in conjunction with another business owned by the same person and under the same name as the other business, the same telephone number may be used for both businesses. If the name of the dealer differs from the name of the other business, a separate telephone listing and a separate sign for each business are required.

(B) A person may conduct business as a dealer in conjunction with another business not owned by that person only if the dealer owns the property on which business is conducted or has a separate lease agreement from the owner of that property that meets the requirements of this section. The same telephone number may not be used by both businesses. The dealer must have separate business signs, telephone listings, and office equipment required under this section.

(C) A dealer's office must have permanent interior walls on all sides and be separate from any public area used by another business.

(11) Display area and storage lot requirements.

(A) A wholesale motor vehicle dealer is not required to have display space at the wholesale motor vehicle dealer's business premises.

(B) A retail dealer must have an area designated as display space for the retail dealer's inventory. A retail dealer's designated display area must comply with the following requirements.

(i) The display area must be located at the retail dealer's physical business address or contiguous to the retail dealer's physical address. The display area may not be in a storage lot.

(ii) The display area must be of sufficient size to display at least five vehicles of the type for which the GDN is issued. The display area must be reserved exclusively for the retail dealer's inventory and may not be used for customer parking, employee parking, general storage, or shared or intermingled with another business or a public parking area, a driveway to the office, or another dealer's display area.

(iii) The display area may not be on a public easement, right-of-way, or driveway unless the governing body having jurisdiction of the easement, right-of-way, or driveway expressly consents in writing to use as a display area. If the easement, right-of-way, or driveway is a part of the state highway system, use as a display area may only be authorized by a lease agreement.

(iv) If a retail dealer shares a display or parking area with another business, including another dealer, the dealer's vehicle inventory must be separated from the other business's display or parking area by a material object or barrier that cannot be readily removed. A barrier that cannot be readily removed is one that cannot be easily moved by one person and typically weighs more than 50 pounds. A material object or barrier must be in place on all sides except for the space necessary to allow for entry and exit of vehicle inventory.

(v) If a dealer's business location includes gasoline pumps or a charging station or includes another business that sells gasoline or has a charging station, the dealer's display area may not be part of the parking area for fuel or charging station customers and may not interfere with access to or from the gasoline pumps, fuel tanks, charging station, or fire prevention equipment.

(vi) The display area must be adequately illuminated if the retail dealer is open at night so that a vehicle for sale can be properly inspected by a potential buyer.

(vii) The display area may be located inside a building; however, if multiple dealers are displaying vehicles inside a building, each dealer's display area must be separated by a material object or barrier that cannot be readily removed. A barrier that cannot be readily removed is one that cannot be easily moved by one person and typically weighs more than 50 pounds. A material object or barrier must be in place on all sides except for the space necessary to allow for entry and exit of vehicle inventory.

(C) A GDN holder may maintain a storage lot only if the storage lot is not accessible to the public and no sales activity occurs at the storage lot. A sign stating the license holder's name, contact information, and the fact the property is a storage lot is permissible. A storage lot must be fenced or in an access-controlled location to be considered not accessible to the public. A GDN holder or applicant must disclose the address of a storage lot or the location of a vehicle in inventory upon request by the department.

(12) Dealers authorized to sell salvage motor vehicles. If an independent motor vehicle dealer offers a salvage motor vehicle for sale on the dealer's premises, the vehicle must be clearly and conspicuously marked with a sign informing a potential buyer that the vehicle is a salvage motor vehicle.

(13) Lease requirements. If the premises from which a dealer conducts business, including any display area, is not owned by the dealer, the dealer must maintain a lease that is continuous during the period of time for which the dealer's license will be issued. The lease agreement must be on a properly executed form containing at a minimum:

(A) the name of the property owner as the lessor of the premises and the name of the dealer as the tenant or lessee of the premises;

(B) the period of time for which the lease is valid;

(C) the street address or legal description of the property, provided that if only a legal description of the property is included, a dealer must attach a statement verifying that the property description in the lease agreement is the physical street address identified on the

application as the physical address for the established and permanent place of business;

(D) the signature of the property owner as the lessor and the signature of the dealer as the tenant or lessee; and

(E) if the lease agreement is a sublease in which the property owner is not the lessor, the dealer must also obtain a signed and notarized statement from the property owner including the following information:

(i) property owner's full name, email address, mailing address, and phone number; and

(ii) property owner's statement confirming that the dealer is authorized to sublease the location and may operate a vehicle sales business from the location.

(14) Dealer must display GDN and bond notice. A dealer must display the dealer's GDN issued by the department at all times in a manner that makes the GDN easily readable by the public and in a conspicuous place at each place of business for which the dealer's GDN is issued. A dealer required to obtain a surety bond must post a bond notice adjacent to and in the same manner as the dealer's GDN is displayed. The notice must include the bond company name, bond identification number, and procedure by which a claimant can recover under the bond. The notice must also include the department's website address and notify a consumer that a dealer's surety bond information may be obtained by submitting a request to the department. If the dealer's GDN applies to more than one location, a copy of the GDN and bond notice must be displayed in each supplemental location.

(b) Wholesale motor vehicle auction premises requirements. A wholesale motor vehicle auction must comply with the following premises requirements:

(1) a wholesale motor vehicle auction GDN holder must hold a motor vehicle auction on a regular periodic basis at the licensed location, and an owner or bona fide employee must be available at the business location during each auction and during posted business hours. If the owner or a bona fide employee is not available to conduct business during the posted business hours due to special circumstances or emergencies, a separate sign must be posted indicating the date and time operations will resume.

(2) the business telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a message during these hours.

(3) a wholesale motor vehicle auction GDN holder must display a business sign that meets the following requirements:

(A) The sign must be a conspicuous, permanent sign with letters at least six inches in height showing the business name or assumed name substantially similar to the name reflected on the GDN under which the GDN holder conducts business. A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main entrance of the business office. A business sign is considered permanent only if it is made of durable, weather-resistant material.

(B) The sign must be permanently mounted at the physical address listed on the application for the wholesale motor vehicle auction GDN. A business sign is considered permanently mounted if bolted to an exterior building wall or bolted or welded to a dedicated sign pole or sign support permanently installed in the ground.

(C) An applicant may use a temporary sign or banner if the applicant can show proof that a sign that meets the requirements of this paragraph has been ordered and provides a written statement that the sign will be promptly and permanently mounted upon delivery.

(D) An applicant or holder is responsible for ensuring that the business sign complies with municipal ordinances, and that any lease signage requirements are consistent with the signage requirements in this paragraph.

(4) The business office of a wholesale motor vehicle auction GDN applicant and holder must meet the following requirements:

(A) The office must be located in a building with a permanent roof and connecting exterior walls on all sides.

(B) The office must comply with all applicable municipal ordinances, including municipal zoning ordinances. The wholesale motor vehicle auction is responsible for obtaining a certificate of occupancy, certificate of compliance, or other required document issued by a municipal government to show compliance, including a new certificate or document when the building is altered or remodeled, or when the building use changes.

(C) The office may not be located in a residence, apartment, hotel, motel, rooming house, or any room or building not open to the public.

(D) The office may not be located in a restaurant, gas station, or convenience store, unless the office has a separate entrance door that does not require a customer to pass through the other business.

(E) The office may not be virtual or provided by a subscription for office space or office services. Access to office space or office services is not considered an established and permanent location.

(F) The physical address of the office must be in Texas and recognized by the U.S. Postal Service, capable of receiving U.S. mail, and have an assigned emergency services property address.

(G) A portable-type office building may qualify as an office only if the building meets the requirements of this section and is not a readily moveable trailer or other vehicle.

(5) A wholesale motor vehicle auction GDN applicant and holder must have the following office equipment:

(A) a desk;

(B) a chair;

(C) internet access; [~~and~~]

(D) a working telephone number listed in the business name or assumed name under which business is conducted; and[.]

(E) a locked and secured room or closet or at least one securely locked, substantially constructed safe or steel cabinet bolted or affixed to the floor or wall in such a way that the safe or steel cabinet cannot be readily removed and of sufficient size to store all license plates necessary to remove from a vehicle upon sale at auction such as a license plate or set of license plates removed from a vehicle sold to an out-of-state buyer or sold for export.

(6) A wholesale motor vehicle auction must meet the following display area and storage lot requirements:

(A) The area designated as display space for inventory must be located at the physical business address or contiguous to the physical address. The display area may not be in a storage lot.

(B) The display area must be of sufficient size to display at least five vehicles. Those spaces must be reserved exclusively for in-

ventory and may not be used for customer parking, employee parking, general storage, or shared or intermingled with another business or a public parking area, or a driveway to the office.

(C) The display area may not be on a public easement, right-of-way, or driveway unless the governing body having jurisdiction of the easement, right-of-way, or driveway expressly consents in writing to use as a display area. If the easement, right-of-way, or driveway is a part of the state highway system, use as a display area may only be authorized by a lease agreement.

(D) If the business location includes gasoline pumps or a charging station or includes another business that sells gasoline or has a charging station, the display area may not be part of the parking area for fuel or charging station customers and may not interfere with access to or from the gasoline pumps, fuel tanks, charging station, or fire prevention equipment.

(E) The display area must be adequately illuminated if open at night so that a vehicle for sale can be properly inspected by a potential buyer.

(F) The display area may be located inside a building.

(G) A wholesale motor vehicle auction may maintain a storage lot only if the storage lot is not accessible to the public and no sales activity occurs at the storage lot. A sign stating the business name, contact information, and the fact the property is a storage lot is permissible. A storage lot must be fenced or in an access-controlled location to be considered not accessible to the public. A GDN holder or applicant must disclose the address of a storage lot or the location of a vehicle in inventory upon request by the department.

(7) A wholesale motor vehicle auction must meet the following lease requirements if the business premises, including any display area, is not owned by the wholesale motor vehicle auction:

(A) the applicant or holder must maintain a lease that is continuous during the period of time for which the GDN will be issued;

(B) The lease agreement must be on a properly executed form containing at a minimum:

(i) the name of the property owner as the lessor of the premises and the name of the GDN applicant or holder as the tenant or lessee of the premises;

(ii) the period of time for which the lease is valid;

(iii) the street address or legal description of the property, provided that if only a legal description of the property is included, a wholesale motor vehicle auction must attach a statement verifying that the property description in the lease agreement is the physical street address identified on the application as the physical address for the established and permanent place of business;

(iv) the signature of the property owner as the lessor and the signature of the applicant or holder as the tenant or lessee; and

(C) if the lease agreement is a sublease in which the property owner is not the lessor, the wholesale motor vehicle auction must also obtain a signed and notarized statement from the property owner including the following information:

(i) property owner's full name, email address, mailing address, and phone number; and

(ii) property owner's statement confirming that the wholesale motor vehicle auction is authorized to sublease the location and may operate a wholesale motor vehicle auction business from the location.

§215.141. Sanctions.

(a) The board or department may take the following actions against a license applicant, a license holder, or a person engaged in business for which a license is required:

(1) deny an application;

(2) revoke a license;

(3) suspend a license;

(4) assess a civil penalty;

(5) issue a cease and desist order; or

(6) or take other authorized action.

(b) The board or department may take action described in subsection (a) of this section if a license applicant, a license holder, or a person engaged in business for which a license is required:

(1) fails to maintain a good and sufficient bond or post the required bond notice if required under Transportation Code §503.033 (relating to Security Requirement);

(2) fails to meet or maintain the requirements of §215.140 (relating to Established and Permanent Place of Business Premises Requirements);

(3) fails to maintain records required under this chapter;

(4) refuses or fails to comply with a request by the department for electronic records or to examine and copy electronic or physical records during the license holder's business hours at the licensed business location:

(A) sales records required to be maintained by §215.144 of this title (relating to Vehicle Records);

(B) ownership papers for a vehicle owned by that dealer or under that dealer's control;

(C) evidence of ownership or a current lease agreement for the property on which the business is located; or

(D) the Certificate of Occupancy, Certificate of Compliance, business license or permit, or other official documentation confirming compliance with county and municipal laws or ordinances for a vehicle business at the licensed physical location.

(5) refuses or fails to timely comply with a request for records made by a representative of the department;

(6) holds a wholesale motor vehicle dealer's license and sells or offers to sell a motor vehicle to a person other than a licensed or authorized dealer;

(7) sells or offers to sell a type of vehicle that the person is not licensed to sell;

(8) fails to submit a license amendment application in the electronic licensing system designated by the department to notify the department of a change of the license holder's physical address, mailing address, telephone number, or email address within 10 days of the change;

(9) fails to submit a license amendment application in the electronic licensing system designated by the department to notify the department of a license holder's name change, or management or ownership change within 10 days of the change;

(10) [~~except as provided by law,~~] issues more than one buyer's license plate or set of plates or buyer's temporary license plate for a vehicle sold on or after July 1, 2025, or more than one temporary

tag for a vehicle sold before July 1, 2025, for the purpose of extending the purchaser's operating privileges for more than 60 days;

(11) fails to remove a license plate or registration insignia from a vehicle that is displayed for sale;

(12) misuses a dealer's license plate, or a temporary tag before July 1, 2025;

(13) fails to display a dealer's license plate, or temporary tag before July 1, 2025, as required by law;

(14) holds open a title or fails to take assignment of a certificate of title, manufacturer's certificate, or other basic evidence of ownership for a vehicle acquired by the dealer, or fails to assign the certificate of title, manufacturer's certificate, or other basic evidence of ownership for a vehicle sold;

(15) fails to remain regularly and actively engaged in the business of buying, selling, or exchanging vehicles of the type for which the GDN is issued by the department;

(16) violates a provision of Occupations Code, Chapter 2301; Transportation Code Chapters 503 and 1001-1005; a board order or rule; or a regulation of the department relating to the sale, lease, distribution, financing, or insuring of vehicles, including advertising rules under Subchapter F of this chapter (relating to Advertising);

(17) is convicted of an offense that directly relates to the duties or responsibilities of the occupation in accordance with §211.3 of this title (relating to Criminal Offense Guidelines);

(18) is determined by the board or department, in accordance with §215.89 of this title (relating to Fitness), to be unfit to hold a license;

(19) has not assigned at least five vehicles in the prior 12 months, provided the dealer has been licensed more than 12 months;

(20) files or provides a false or forged:

(A) title document, including an affidavit making application for a certified copy of a title; or

(B) tax document, including a sales tax statement or affidavit;

(21) uses or allows use of that dealer's license or location for the purpose of avoiding a provision of Occupations Code, Chapter 2301; Transportation Code, Chapters 503 and 1001 - 1005; or other laws;

(22) omits information or makes a material misrepresentation in any application or other documentation filed with the department including providing a false or forged identity document or a false or forged photograph, electronic image, or other document;

(23) fails to remit payment as ordered for a civil penalty assessed by the board or department;

(24) sells a new motor vehicle without a franchised dealer's license issued by the department;

(25) fails to comply with a dealer responsibility under §215.150 of this title (relating to Dealer Authorization to Issue License Plates [~~Authorization to Issue Temporary Tags~~]);

(26) on or after July 1, 2025, fails to securely store a license plate; [~~utilizes a temporary tag that fails to meet the requirements of §215.153 of this title (relating to Specifications for All Temporary Tags);~~]

(27) fails to maintain a record of dealer license plates as required under §215.138 of this title (relating to Use of Dealer's License Plates);

(28) on or after July 1, 2025, fails to file or enter a vehicle transfer notice;

(29) fails to enter a lost, stolen, or damaged license plate in the electronic system designated by the department within the time limit prescribed by rule;

(30) [~~(27)~~] violates any state or federal law or regulation relating to the sale of a motor vehicle;

(31) [~~(28)~~] knowingly fails to disclose that a motor vehicle has been repaired, rebuilt, or reconstructed and issued a title under Transportation Code, §501.100 (relating to Application for Regular Certificate of Title for Salvage Vehicle);

(32) [~~(29)~~] fails to issue a refund as ordered by the board or department; or

(33) [~~(30)~~] fails to acquire or maintain a required certificate of occupancy, certificate of compliance, business license or permit, or other official documentation for the licensed location confirming compliance with county or municipal laws or ordinances or other local requirements for a vehicle business;[~~.~~]

(34) on or after July 1, 2025, fails to remove a license plate or set of license plates from a vehicle sold to an out-of-state buyer or from a vehicle sold for export; or

(35) fails to keep or maintain records required under Occupations Code, Chapter 2305, Subchapter D or to allow an inspection of these records by the department.

§215.143. Drive-a-way Operator In-Transit License Plates.

(a) A drive-a-way operator may apply for a drive-a-way in-transit standard license plate:

(1) when applying for a new or renewal in-transit license, or

(2) by submitting a plate request application electronically in the system designated by the department.

(b) A drive-a-way operator must display an in-transit license plate in the rear of each transported motor vehicle from the vehicle's point of origin to its point of destination in Texas in accordance with §217.27 of this title (relating to Vehicle Registration Insignia).

(c) A drive-a-way operator shall maintain a record of each license plate issued to the operator by the department in the department-designated system. The record of each license plate issued must contain:

(1) the license plate number;

(2) the year and make of the vehicle to which the license plate is affixed;

(3) the VIN of the vehicle; and

(4) the name of the person in control of the license plate [~~vehicle~~].

(d) If a drive-a-way operator cannot account for a license plate or a license plate is damaged, the operator must:

(1) document the license plate as "void" in the department-designated system [~~operator's plate record~~];

(2) within three days of discovering that the license plate is missing or damaged, report the license plate as lost, stolen, or damaged in the electronic system designated by the department; and

(3) if found once reported, cease use of the license plate.

(e) A license plate is no longer valid for use after the drive-a-way operator reports to the department that the plate is lost, stolen, or damaged. A drive-a-way operator must render a void plate unusable by permanently marking the front of the plate with the word "VOID" or a large "X" and once marked, may destroy or recycle the license plate, or return the license plate to the department for recycling within 10 days. A drive-a-way operator is also encouraged to immediately alert law enforcement by reporting a stolen license plate to a local law enforcement agency.

[(f) The drive-a-way operator's license plate record must be available for inspection and copying by the department during normal business hours or be available to submit electronically to the department upon request.]

(f) [(g)] In evaluating requests for additional license plates, the department will consider the business justification provided by a drive-a-way operator including the following:

(1) the number of vehicles currently being transported to a location in Texas;

(2) the highest number of motor vehicles transported in the prior 12 months;

(3) the size and type of business; and

(4) the operator's record of tracking and reporting missing or damaged plates to the department.

(g) [(h)] If a drive-a-way operator closes the associated license or the associated license is revoked or canceled by the department, the operator must return a license plate to the department within 10 days.

§215.144. Vehicle Records.

(a) Purchases and sales records. A dealer and wholesale motor vehicle auction shall maintain a complete record of all vehicle purchases and sales for a minimum period of 48 months and make the record available for inspection and copying by the department during business hours.

(b) Independent mobility motor vehicle dealers. An independent mobility motor vehicle dealer shall keep a complete written record of each vehicle purchase, vehicle sale, and any adaptive work performed on each vehicle for a minimum period of 36 months after the date the adaptive work is performed on the vehicle. An independent mobility motor vehicle dealer shall also retain and produce for inspection all records relating to license requirements under Occupations Code, §2301.002(17-b) and all information and records required under Transportation Code §503.0295.

(c) Location of records. A dealer's record reflecting purchases and sales for the preceding 13 months must be maintained at the dealer's licensed location. Original titles are not required to be kept at the licensed location but must be made available to the agency upon reasonable request. A dealer's record for prior time periods may be kept off-site.

(d) Request for records. Within 15 days of receiving a request from a representative of the department, a dealer shall deliver a copy of the specified records to the address listed in the request. If a dealer has a concern about the origin of a records request, the dealer may verify that request with the department prior to submitting its records.

(e) Content of records. A dealer's complete record for each vehicle purchase or vehicle sale must contain:

(1) the date of the purchase;

(2) the date of the sale;

(3) the VIN;

(4) the name and address of the person selling the vehicle to the dealer;

(5) the name and address of the person purchasing the vehicle from the dealer;

(6) the name and address of the consignor if the vehicle is offered for sale by consignment;

(7) except for a purchase or sale where the Tax Code does not require payment of motor vehicle sales tax, a county tax assessor-collector receipt marked paid;

(8) a copy of all documents, forms, and agreements applicable to a particular sale, including a copy of:

(A) the title application;

(B) the work-up sheet;

(C) the front and back of the manufacturer's certificate of origin or manufacturer's statement of origin, unless the dealer obtains the title through webDEALER as defined in §217.71 of this title (relating to Automated and Web-Based Vehicle Registration and Title Systems) [the electronic title system];

(D) the front and back of the title for the purchase and the sale, unless the dealer enters or obtains the title through webDEALER as defined in §217.71 of this title [the electronic title system];

(E) the factory invoice, if applicable;

(F) the sales contract;

(G) the retail installment agreement;

(H) the buyer's order;

(I) the bill of sale;

(J) any waiver;

(K) any other agreement between the seller and purchaser;

(L) the purchaser's photo identification;

(M) the odometer disclosure statement signed by the buyer, unless the vehicle is exempt; and

(N) the rebuilt salvage disclosure, if applicable.

(9) the original manufacturer's certificate of origin, original manufacturer's statement of origin, or original title for a [new] motor vehicle offered for sale by a dealer which must be properly stamped if the title transaction is entered into webDEALER as defined in §217.71 of this title [the electronic titling system] by the dealer;

(10) the dealer's monthly Motor Vehicle Seller Financed Sales Returns, if any; and

(11) if the vehicle sold is a motor home or a towable recreational vehicle subject to inspection under Transportation Code, Chapter 548, a copy of the written notice provided to the buyer at the time of the sale, notifying the buyer that the vehicle is subject to inspection requirements.

(f) Title assignments.

(1) For each vehicle a dealer acquires or offers for sale, the dealer must properly take assignment in the dealer's name of any:

(A) title;

(B) manufacturer's statement of origin;

(C) manufacturer's certificate of origin; or

(D) other evidence of ownership.

(2) Unless not required by Transportation Code, §501.0234(b), a dealer must apply in the name of the purchaser of a vehicle for the title and registration, as applicable, of the vehicle with a county tax assessor-collector.

(3) To comply with Transportation Code, §501.0234(f), a title or registration is considered filed within a reasonable time if [~~the registration is~~] filed within:

(A) 30 days of the vehicle sale date [~~date of sale of the vehicle for a vehicle titled or registered in Texas~~]; or

(B) 45 days of the vehicle sale date [~~date of sale of the vehicle~~] for a dealer-financed transaction; or [~~involving a vehicle that is titled or registered in Texas.~~]

(C) 60 days of the vehicle sale date for a vehicle purchased by a member or reserve member of the United States armed forces, Texas National Guard, or National Guard of another state serving on active duty.

(4) The dealer is required to provide to the purchaser the receipt for the title and registration application.

(5) The dealer is required to maintain a copy of the receipt for the title and registration application in the dealer's sales file.

(g) Out-of-state sales. For a sale involving a vehicle to be transferred out of state, the dealer must:

(1) within 30 days of the date of sale, either file the application for certificate of title on behalf of the purchaser or deliver the properly assigned evidence of ownership to the purchaser; and

(2) maintain in the dealer's record at the dealer's licensed location a photocopy of the completed sales tax exemption form for out of state sales approved by the Texas Comptroller of Public Accounts.

(h) Consignment sales. A dealer offering a vehicle for sale by consignment must have a written consignment agreement or a power of attorney for the vehicle, and shall, after the sale of the vehicle, take assignment of the vehicle in the dealer's name and, pursuant to subsection (f), apply in the name of the purchaser for transfer of title and registration, if the vehicle is to be registered, with a county tax assessor-collector. The dealer must, for a minimum of 48 months, maintain a record of each vehicle offered for sale by consignment, including the VIN and the name of the owner of the vehicle offered for sale by consignment.

(i) Public motor vehicle auctions.

(1) A GDN holder that acts as a public motor vehicle auction must comply with subsection (h) of this section.

(2) A public motor vehicle auction:

(A) is not required to take assignment of title of a vehicle it offers for sale;

(B) must take assignment of title of a vehicle from a consignor prior to making application for title on behalf of the buyer; and

(C) must make application for title on behalf of the purchaser and remit motor vehicle sales tax within a reasonable time as defined in subsection (f) of this section. [~~20 working days of the sale of the vehicle.~~]

(3) A GDN holder may not sell another GDN holder's vehicle at a public motor vehicle auction.

(j) Wholesale motor vehicle auction records. A wholesale motor vehicle auction license holder shall maintain, for a minimum of 48 months, a complete record of each vehicle purchase and sale occurring through the wholesale motor vehicle auction. The wholesale motor vehicle auction license holder shall make the record available for inspection and copying by the department during business hours.

(1) A wholesale motor vehicle auction license holder shall maintain at the licensed location a record reflecting each purchase and sale for at least the preceding 24 months. Records for prior time periods may be kept off-site.

(2) Within 15 days of receiving a department request, a wholesale motor vehicle auction license holder shall deliver a copy of the specified records to the address listed in the request.

(3) A wholesale motor vehicle auction license holder's complete record of each vehicle purchase and sale must, at a minimum, contain:

(A) the date of sale;

(B) the VIN;

(C) the name and address of the person selling the vehicle;

(D) the name and address of the person purchasing the vehicle;

(E) the dealer's license number of both the selling dealer and the purchasing dealer, unless either is exempt from holding a license;

(F) all information necessary to comply with the federal odometer disclosure requirements in 49 CFR Part 580;

(G) auction access documents, including the written authorization and revocation of authorization for an agent or employee, in accordance with §215.148 of this title (relating to Dealer Agents);

(H) invoices, bills of sale, checks, drafts, or other documents that identify the vehicle, the parties, or the purchase price;

(I) any information regarding the prior status of the vehicle such as the Reacquired Vehicle Disclosure Statement or other lemon law disclosures; and

(J) a copy of any written authorization allowing an agent of a dealer to enter the auction.

(k) Electronic records. A license holder may maintain a record in an electronic format if the license holder can print the record at the licensed location upon request by the department, except as provided by subsection (l) of this section.

(l) Use of department electronic titling and registration systems:[.]

(1) webDEALER. A license holder utilizing the department's web-based title application known as webDEALER, as defined in §217.71 of this title (relating to Automated and Web-Based Vehicle Registration and Title Systems), shall comply with §217.74 of this title (relating to Access to and Use of webDEALER). Original hard

copy titles are not required to be kept at the licensed location but must be made available to the department upon request.

(2) License Plate System. A license holder must comply with §215.151 of this title (relating to Buyer's License Plates General Use Requirements) regarding requirements to enter information into the department-designated electronic system for license plates.

§215.147. Export Sales.

(a) Before selling a motor vehicle for export from the United States to another country, a dealer must obtain a legible photocopy of the buyer's government-issued photo identification document. The photo identification document must be issued by the jurisdiction where the buyer resides and be:

(1) a passport;

(2) a driver license;

(3) a license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

(4) a national identification certificate or identity document; or

(5) other identification document containing the:

(A) name of the issuing jurisdiction;

(B) buyer's full name;

(C) buyer's foreign address;

(D) buyer's date of birth;

(E) buyer's photograph; and

(F) buyer's signature.

(b) A dealer that sells a vehicle for export from the United States shall place a stamp on the title that includes the words "For Export Only" and includes the dealer's GDN. The stamp must be legible, in black ink, at least two inches wide, and placed on the:

(1) back of the title in all unused dealer reassignment spaces; and

(2) front of the title in a manner that does not obscure any names, dates, mileage statements, or other information printed on the title.

(c) In addition to the records required to be maintained by §215.144 of this title (relating to Vehicle Records), a dealer shall maintain, for each motor vehicle sold for export, a sales file record. The sales file record shall be made available for inspection and copying upon request by the department. The sales file record of each vehicle sold for export must contain:

(1) a completed copy of the Texas Motor Vehicle Sales Tax Exemption Certificate for Vehicles Taken Out of State, indicating that the vehicle has been purchased for export to a foreign country;

(2) a copy of the front and back of the title of the vehicle, showing the "For Export Only" stamp and the GDN of the dealer; and

(3) if applicable, an Export-only Sales Record Form, listing each motor vehicle sold for export only.

(d) A dealer, at the time of sale of a vehicle for export, shall remove, void, and destroy or recycle any license plate or registration insignia as required under §215.158 (relating to General Requirements for Buyer's License Plates) before transferring the vehicle.[~~:~~]

[~~(1) enter the information required by Transportation Code, §503.061 in the temporary tag database;~~]

[~~(2) designate the sale as "For Export Only"; and~~]

[~~(3) issue a buyer's temporary tag, in accordance with Transportation Code, §503.063.~~]

§215.148. Dealer Agents.

(a) A dealer shall provide written authorization to each person with whom the dealer's agent or employee will conduct business on behalf of the dealer, including to a person that:

(1) buys and sells motor vehicles for resale; or

(2) operates a licensed auction.

(b) If a dealer's agent or employee that conducts business on behalf of the dealer commits an act or omission that would be cause for denial, revocation, or suspension of a license in accordance with Occupations Code, Chapter 2301 or Transportation Code, Chapter 503, the board may:

(1) deny an application for a license; or

(2) revoke or suspend a license.

(c) The board may take action described in subsection (b) of this section after notice and an opportunity for hearing, in accordance with Occupations Code, Chapter 2301 and Chapter 224 of this title [(~~relating to~~] (relating to Adjudicative Practice and Procedure)[)].

(d) A dealer's authorization to an agent or employee must:

(1) be in writing;

(2) be signed by the dealer principal or person in charge of daily activities of the dealership;

(3) include the agent's or employee's name, current mailing address, and telephone number;

(4) include the dealer's business name, address, and dealer license number or numbers;

(5) expressly authorize buying or selling by the specified agent or employee;

(6) state that the dealer is liable for any act or omission regarding a duty or obligation of the dealer that is caused by that agent or employee, including any financial considerations to be paid for the vehicle;

(7) state that the dealer's authorization remains in effect until the recipient of the written authorization is notified in writing of the revocation of the authority; and

(8) be maintained as a required dealer's record and made available upon request by a representative of the department, in accordance with the requirements of §215.144 of this title (relating to Vehicle Records).

(e) A license holder, including a wholesale motor vehicle auction that buys and sells vehicles on a wholesale basis, including by sealed bid, is required to verify the authority of any person claiming to be an agent or employee of a licensed dealer who purports to be buying or selling a motor vehicle:

(1) on behalf of a licensed dealer; or

(2) under the written authority of a licensed dealer.

(f) A title to a vehicle bought by an agent or employee of a dealer shall be:

(1) reassigned to the dealer by the seller or by the auction; and

(2) shall not be delivered to the agent or employee but delivered only to the dealer or the dealer's financial institution.

(g) Notwithstanding the prohibitions in this section, an authorized agent or employee may sign a required odometer statement.

(h) In a wholesale transaction for the purchase of a motor vehicle, the seller may accept as consideration only:

(1) a check or a draft drawn on the purchasing dealer's account;

(2) a cashier's check in the name of the purchasing dealer; or

(3) a wire transfer from the purchasing dealer's bank account.

§215.150. Dealer Authorization to Issue License Plates [~~Temporary Tags~~].

(a) A dealer that holds a GDN must [~~may~~] issue a general issue license plate or set of license plates for a vehicle type the dealer is authorized to sell to: [~~a dealer's temporary tag, buyer's temporary tag, or a preprinted Internet-down temporary tag for authorized purposes only for each type of vehicle the dealer is licensed to sell or lease. A converter that holds a converter's license under Occupations Code, Chapter 2301 may issue a converter's temporary tag for authorized purposes only.~~]

(1) a buyer of a new vehicle to be titled and registered in Texas, unless the buyer has a specialty, personalized, or other qualifying license plate eligible to be assigned to the vehicle with approval of the department; or

(2) a buyer of a used vehicle to be titled and registered in Texas if a general issue license plate or set of license plates did not come with the vehicle and the buyer does not have a specialty, personalized, or other qualifying license plate eligible to be assigned to the vehicle with approval of the department.

(b) Notwithstanding subsection (a), a dealer that holds a GDN is not required to issue a general issue license plate or set of plates to a vehicle sold to a commercial fleet buyer authorized as a Dealer Deputy under §217.166 of the title (relating to Dealer Deputies).

(c) A dealer that holds a GDN must issue a buyer's temporary license plate to an out-of-state buyer for a vehicle that is to be registered in another state.

(d) [~~(b)~~] A dealer [~~license holder~~] may issue a license plate under Transportation Code §503.063 [~~an applicable dealer's temporary tag, buyer's temporary tag, or converter's temporary tag~~] until:

(1) the department denies access to the license plate system [~~temporary tag database~~] under Transportation Code §503.0633(f) [~~§503.0632(f)~~] and §224.58 of this title (relating to Denial of Dealer [~~or Converter~~] Access to License Plate System [~~Temporary Tag System~~]);

(2) the dealer [~~license holder~~] issues the maximum number of license plates [~~temporary tags~~] authorized under Transportation Code, §503.0633(a) - (d) [~~§503.0632(a)-(d)~~]; or

(3) the GDN [~~license~~] is canceled, revoked, or suspended.

(e) [~~(c)~~] A [~~federal, state, or local~~] governmental agency that is exempt under Transportation Code, § [~~Section~~] 503.024 from the requirement to obtain a dealer general distinguishing number may issue a general issue license plate or set of license plates or a buyer's temporary license plate to the buyer of a vehicle owned by the governmental agency unless the buyer has a specialty, personalized, or other qualifying license plate that is eligible to be assigned to the vehicle with approval of the department. [~~one buyer's temporary tag, or one preprinted Internet-down temporary tag, in accordance with Transportation Code §503.063.~~] A governmental agency that issues a general issue or buyer's temporary license plate [~~buyer's temporary tag, or preprinted Internet-down temporary tag,~~] under this subsection:

(1) is subject to the provisions of Transportation Code §503.0631 and §503.0671 [~~§503.067~~] applicable to a dealer; and

(2) is not required to charge the registration fee authorized under Transportation Code §503.063(g) and specified in §215.155(g) of this title (relating to Buyer's License Plates).

(f) [~~(d)~~] A dealer [~~or converter~~] is responsible for all use of and access to all license plates in the dealer's possession and the license plate system [~~the applicable temporary tag database~~] under the dealer's [~~or converter's~~] account, including access by any user or unauthorized person. Dealer [~~and converter~~] duties include monitoring license plate storage and issuance [~~temporary tag usage~~], managing account access, and taking timely and appropriate actions to maintain license plate and system security, including:

(1) establishing and following reasonable password policies, including preventing the sharing of passwords;

(2) limiting authorized users to owners and bona fide employees with a business need to access license plates and the license plate system [~~database~~];

(3) removing users who no longer have a legitimate business need to access the system;

(4) securing all license plates, including license plates assigned to vehicles in inventory, dealer's license plates, and unissued buyer's license plates, by storing license plates in a locked and secured room or closet or one or more securely locked, substantially constructed safes or steel cabinets bolted or affixed to the floor or wall of sufficient size to store all dealer and buyer's license plates in a dealer's possession, and by promptly marking and destroying, recycling, or returning void license plates as required under §215.158 of this title (relating to General Requirements for Buyer's License Plates; and [~~securing printed tags and destroying expired tags, by means such as storing printed tags in locked areas and shredding or defacing expired tags; and~~]

(5) securing equipment used to access the license plate system. [~~temporary tag database and print temporary tags.~~]

§215.151. License Plate General Use Requirements.

(a) If a buyer purchases a vehicle to be registered in Texas, a dealer must secure, or a government agency may secure, a license plate or set of license plates to the vehicle in accordance with §217.27 of this title (relating to Vehicle Registration Insignia) and update the license plate system accordingly.

(1) A dealer must secure, or a governmental agency may secure, a buyer-provided license plate on the purchased vehicle if a buyer provides a specialty, personalized, or other qualifying license plate that is eligible to be assigned to the vehicle with approval of the department and update the license plate system accordingly.

(2) A dealer must issue a general issue license plate or set of license plates to the buyer if a buyer purchases a new vehicle from a dealer and the buyer does not have a specialty, personalized, or other qualifying license plate to transfer to the vehicle.

(3) A dealer must issue, or a governmental agency may issue, a general issue license plate or set of license plates to a buyer pur-

chasing a used vehicle if the vehicle does not have an assigned license plate in the license plate system or the assigned license plate is missing or damaged and the buyer does not have a specialty, personalized, or other qualifying license plate to transfer to the vehicle.

(b) If a non-resident buyer purchases a vehicle to be titled and registered in another state, a dealer must issue, or a governmental agency may issue, a buyer's temporary license plate and secure the temporary license plate to the rear of a vehicle in accordance with §217.27 of this title and update the license plate system accordingly.

(c) If a vehicle has an assigned license plate or set of license plates and the buyer provides a specialty, personalized, or other qualifying license plate to transfer to the vehicle, a dealer must update the license plate status in the license plate system, mark the license plate as void and destroy, recycle, or return the license plate as required in §215.158 of the title (relating to General Requirements for Buyer's License Plates).

(d) A dealer, including a wholesale dealer, must remove a general issue license plate or set of license plates from a purchased vehicle, store the license plate or set of license plates in a secure location in accordance with §215.150(d) of this title (relating to Dealer Authorization to Issue License Plates), and:

(1) provide the assigned license plate or set of license plates to a Texas buyer that purchases the vehicle; or

(2) if the vehicle is sold to an out-of-state buyer or for export, update the license plate status in the license plate system, mark the license plate as void and destroy, recycle, or return the license plate as required in §215.158 of the title.

§215.152. Obtaining Dealer-Issued Buyer's License Plates. [~~Numbers for Issuance of Temporary Tags.~~]

(a) A dealer or[~~, a~~] governmental agency[~~, or a converter~~] is required to have internet access to connect to webDEALER and the license plate system [~~the temporary tag databases~~] maintained by the department and is responsible for verifying receipt of license plates in the license plate system.

(b) Except as provided by §215.157 of this title (relating to Issuing License Plates When Internet Not Available), before a license plate may be issued or secured on a vehicle, a dealer or governmental agency must enter in the license plate system true and accurate information about:

(1) the vehicle;

(2) the buyer; and

(3) the license plate number issued or assigned to the vehicle.

[~~(b) Except as provided by §215.157 of this title (relating to Advance Numbers, Preprinted Internet-down Temporary Tags), before a temporary tag may be issued and displayed on a vehicle, a dealer, a governmental agency, or converter must:~~]

[~~(1) enter in the temporary tag database true and accurate information about the vehicle, dealer, converter, or buyer, as appropriate; and~~]

[~~(2) obtain a specific number for the temporary tag.~~]

(c) The department will inform each dealer annually of the maximum number of buyer's license plates [~~temporary tags~~] the dealer is authorized to obtain [~~issue~~] during the calendar year under Transportation Code, §503.063, including: [~~§503.0632. The number of buyer's temporary tags allocated to each dealer by the department will be determined based on the following formula:~~]

(1) an allotment of unassigned general issue license plates or sets of license plates to be issued to a buyer of a vehicle that is to be titled and registered in Texas, and

(2) a separate allotment of buyer's temporary license plates to be issued to a non-resident buyer for a vehicle that will be registered and titled in another state.

[~~(1) Sales data determined from the department's systems from the previous three fiscal years. A dealer's base number will contain the sum of:~~]

[~~(A) the greater number of:~~]

[~~*(i)* in-state buyer's temporary tags issued in one fiscal year during the previous three fiscal years; or~~]

[~~*(ii)* title transactions processed through the Registration and Title System in one fiscal year during the previous three fiscal years; but~~]

[~~*(iii)* the amount will be limited to an amount that is not more than two times the number of title transactions identified in subparagraph (ii) of this paragraph; and~~]

[~~(B) the addition of the greatest number of out-of-state buyer's temporary tags issued in one fiscal year during the previous three fiscal years;~~]

[~~(2) the total value of paragraph (1) of this subsection will be increased by a multiplier based on the dealer's time in operation giving a 10 percent increase in tags for each year the dealer has been in operation up to 10 years;~~]

[~~(3) the total value of paragraph (2) of this subsection will be increased by a multiplier that is the greater of:~~]

[~~(A) the dealer's actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of title transactions processed through the Registration and Title System plus the growth of the number of out-of-state buyer's temporary tags issued, except that it may not exceed 200 percent; or~~]

[~~(B) the statewide actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of title transactions processed through the Registration and Title System plus the growth of the number of out-of-state buyer's temporary tags issued, not less than zero, to determine the buyer's temporary tag allotment; and~~]

[~~(4) the department may increase the determined allotment of buyer's temporary tags for dealers in the state, in a geographic or population area, or in a county, based on:~~]

[~~(A) changes in the market;~~]

[~~(B) temporary conditions that may affect sales; and~~]

[~~(C) any other information the department considers relevant.~~]

(d) The department will calculate a dealer's maximum annual allotment of unassigned general issue license plates and buyer's temporary license plates based on the following formula: [~~inform each dealer annually of the maximum number of agent temporary tags and vehicle specific temporary tags the dealer is authorized to issue during the calendar year under Transportation Code §503.0632. The number of agent temporary tags and vehicle specific temporary tags allocated to each dealer by the department, for each tag type, will be determined based on the following formula:~~]

(1) Vehicle title transfers, sales, or license plate issuance data determined from the department's systems from the previous fiscal

year; [dealer temporary tag data for agent temporary tags and vehicle specific temporary tags determined from the department's systems from the previous three fiscal years. A dealer's base number will contain the maximum number of dealer temporary tags issued during the previous three fiscal years;]

(2) the total value of paragraph (1) of this subsection will be increased by a multiplier based on the dealer's time in operation giving a 10 percent increase [in tags] for each year the dealer has been in operation up to 10 years; and

(3) the total value of paragraph (2) of this subsection will be increased by a multiplier that is the greater of:

(A) the dealer's actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of in-state or out-of-state sales transactions processed through the department-designated registration and title system or license plate system [dealer's temporary tags issued], except that it may not exceed 200 percent; or

(B) the statewide actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of relevant transactions processed through the department-designated registration and title system or license plate system [dealer's temporary tags issued], not less than zero, to determine the dealer's annual [temporary tag] allotment; and

(4) the department may increase the annual [a dealer's] allotment [of agent temporary tags and vehicle specific temporary tags] for dealers in the state, in a geographic or population area, or in a county, based on:

(A) changes in the market;

(B) temporary conditions that may affect sales; and

(C) any other information the department considers relevant.

[(e) The department will inform each converter annually of the maximum number of temporary tags the converter is authorized to issue during the calendar year under Transportation Code §503.0632. The number of temporary tags allocated to each converter by the department will be determined based on the following formula:]

[(1) converter temporary tag data determined from the department's systems from the previous three fiscal years. A converter's base number will contain the maximum number of converter temporary tags issued during the previous three fiscal years;]

[(2) the total value of paragraph (1) of this subsection will be increased by a multiplier based on the converter's time in operation giving a 10 percent increase in tags for each year the dealer has been in operation up to 10 years; and]

[(3) the total value of paragraph (2) of this subsection will be increased by a multiplier that is the greater of:]

[(A) the converter's actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of converter's temporary tags issued, except that it may not exceed 200 percent; or]

[(B) the statewide actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of converter's temporary tags issued, not less than zero, to determine the converter's temporary tag allotment;]

[(4) the department may increase a converter's allotment of converter temporary tags for converters in the state, in a geographic or population area, or in a county, based on:]

[(A) changes in the market;]

[(B) temporary conditions that may affect sales; and]

[(C) any other information the department considers relevant.]

(e) [(f)] A dealer [or converter that is] licensed after the commencement of a calendar year shall be allocated [authorized to issue] the number of general issue license plates or sets of plates and buyer's temporary plates allocated [temporary tags allotted] in this subsection prorated on all or part of the remaining months until the commencement of the calendar year after the dealer's [or converter's] initial license expires. The initial allocations shall be as determined by the department in granting the license, but not more than:

(1) 200 general issue license plates or sets of plates and 100 buyer's temporary license plates [1,000 temporary tags] for a franchised dealer [per each tag type, buyer's temporary tags, agent temporary tags, and vehicle specific tags,] unless the dealer provides credible information indicating that a greater number of buyer's license plates or sets of license plates is warranted based on anticipated sales, and growth, to include new and used vehicle sales, including information from the manufacturer or distributor, or as otherwise provided in this section.[:]

[(A) the dealer provides credible information indicating that a greater number of tags is warranted based on anticipated sales, and growth, to include new and used vehicle sales, including information from the manufacturer or distributor, or as otherwise provided in this section; and]

[(B) if more than 1,000 temporary tags are determined to be needed based on anticipated sales and growth, the total number of temporary tags needed, including the 1,000, will be doubled;]

(2) 100 general issue license plates or sets of plates and 48 buyer's temporary license plates [300 temporary tags] for a nonfranchised dealer [per each tag type, buyer's temporary tags, agent temporary tags, and vehicle specific tags,] unless the dealer provides credible information indicating that a greater number of license plates or sets of license plates [tags] is warranted based on anticipated sales as otherwise provided in this section.[; and]

[(3) A converter will be allocated 600 temporary tags, unless the converter provides credible information indicating that a greater number of tags is warranted based on anticipated sales, including information from the manufacturer or distributor, or as otherwise provided in this section.]

(f) [(g)] An existing dealer [or converter] that is:

(1) moving its operations from one location to a different location will continue with its allotment of general issue license plates or sets of plates and buyer's temporary license plates [temporary tags] and not be allocated license plates [temporary tags] under subsection (e) [(f)] of this section;

(2) opening an additional location will receive a maximum allotment of buyer's general issue license plates or sets of plates and buyer's temporary license plates [temporary tags] based on the greater of the allotment provided to existing locations, including franchised dealers opening additional locations for different line makes, or the amount under subsection (e) [(f)] of this section;

(3) purchased as a buy-sell ownership agreement will receive the maximum allotment of general issue license plates or sets of plates and buyer's temporary license plates [temporary tags] provided to the location being purchased and not be allocated license plates [temporary tags] under subsection (e) [(f)] of this section; and

(4) inherited by will or laws of descent will receive the maximum allotment of general issue license plates or sets of plates and buyer's temporary license plates [~~temporary tags~~] provided to the location being inherited and not be allocated license plates [~~temporary tags~~] under subsection (e) [~~(f)~~] of this section.

(g) [~~(h)~~] A new dealer [~~or converter~~] may also provide credible information supporting a request for additional general issue license plates or sets of plates and buyer's temporary license plates [~~temporary tags~~] to the amount allocated under subsection (e) [~~(f)~~] of this section based on:

(1) franchised dealer, manufacturer, or distributor sales expectations;

(2) a change in GDN [~~license~~] required by death or retirement, except as provided in subsection (f) [~~(g)~~] of this section;

(3) prior year's sales by a dealer [~~dealership~~] moving into the state; or

(4) other similar change of location or ownership that indicates some continuity in existing operations.

(h) The annual allotment of general issue license plates or sets of plates and buyer's temporary license plates will each be divided by four and allocated to a dealer on a quarterly basis. A dealer's remaining unissued license plates at the end of a calendar quarter will count towards the dealer's next quarterly allotment.

(i) A dealer may request more general issue license plates or sets of plates or buyer's temporary license plates: [~~After using 50 percent of the allotted maximum number of temporary tags, a dealer or converter may request an increase in the number of temporary tags by submitting a request in the department's eLICENSING system.~~]

(1) after using 50 percent of the quarterly allocation of general issue plates or sets of plates or buyer temporary plates, a dealer may request an advance on the next quarter's allotment; or

(2) after using 50 percent of the allotted annual maximum number of general issue plates or sets of plates or buyer temporary plates a dealer may request an increase in the annual allotted number of license plates.

(j) To receive more general issue license plates or sets of plates or buyer's temporary license plates under subsection (i), a dealer must submit a request in the department's designated license plate system.

(k) A dealer requesting an increase in the maximum annual allotment of general issue license plates or sets of plates or buyer's temporary license plates

[~~(1)~~] [~~The dealer or converter~~] must provide information demonstrating the need for additional license plates [~~temporary tags~~] results from business operations, including anticipated needs, as required by Transportation Code, §503.0633(c). [~~§503.0632(c).~~] Information may include documentation of sales and tax reports filed as required by law, information of anticipated need, or other information of the factors listed in Transportation Code, §503.0633(b). [~~§503.0632(b).~~]

(1) [~~(2)~~] The department shall consider the information presented and may consider information not presented that may weigh for or against granting the request that the department in its sole discretion determines to be relevant in making its determination. Other relevant information may include information of the factors listed in Transportation Code, §503.0633(b) [~~§503.0632(b)~~], the timing of the request, and the requestor's [~~applicant's~~] license plate [~~temporary tag~~] activity.

(2) [~~(3)~~] The department may allocate a lesser or greater number of additional license plates [~~temporary tags~~] than the amount requested. Allocation of a lesser or greater number of additional license plates [~~temporary tags~~] is not a denial of the request. Allocation of additional license plates [~~temporary tags~~] under this paragraph does not limit the dealer's [~~or converter's~~] ability to submit additional requests for more license plates [~~temporary tags~~].

(3) [~~(4)~~] If a request is denied, the denial will be sent to the dealer [~~or converter~~] by email to the requestor's email address.

(A) A dealer [~~or converter~~] may appeal the denial to the designated director in the Vehicle Titles and Registration Division. [~~Motor Vehicle Division Director.~~]

(B) The appeal must be requested though the designated license plate system [~~eLICENSING system~~] within 15 days of the date the department emailed the denial to the dealer [~~or converter~~].

(C) The appeal may discuss information provided in the request but may not include additional information.

(D) The designated director in the Vehicle Titles and Registration Division [~~Motor Vehicle Division Director~~] will review the appeal [~~submission~~] and any additional statements concerning the information submitted in the original request and render an opinion within 15 days of receiving the appeal. The designated director in the Vehicle Titles and Registration Division [~~Motor Vehicle Division Director~~] may decide to deny the appeal [~~request~~] and issue no additional license plates [~~tags~~] or award an amount of additional license plates [~~temporary tags~~] that is lesser, equal to, or greater than the request.

(E) The requesting dealer [~~or converter~~] will be notified as follows:

(i) If the designated director in the Vehicle Titles and Registration Division [~~Motor Vehicle Division Director~~] decides to deny the appeal, the department will contact the requesting dealer [~~license holder~~] by email regarding the decision and options to submit a new request with additional relevant credible supporting documentation or to pursue a claim in district court; or

(ii) If the designated director in the Vehicle Titles and Registration Division [~~Motor Vehicle Division Director~~] awards an amount of additional license plates [~~temporary tags~~] that is lesser, equal to, or greater than the request, the additional license plates [~~temporary tags~~] will be added to the dealer's allocation [~~or converter's account~~] and the dealer [~~license holder~~] will be contacted by email regarding the decision, informed that the request has not been denied, and options to submit a new request.

(5) The designated director in the Vehicle Titles and Registration Division's [~~Motor Vehicle Division Director's~~] decision on appeal is final.

(6) Once a denial is final, a dealer [~~or converter~~] may only submit a subsequent request for additional license plates [~~temporary tags~~] during that calendar year if the dealer [~~or converter~~] is able to provide additional information not considered in a prior request.

(l) [~~(j)~~] A change in the allotment under subsection (i) of this section does not create a dealer [~~or converter~~] base for subsequent year calculations.

(m) [~~(k)~~] The department may at any time initiate an enforcement action against a dealer [~~or converter~~] if license plate system activity [~~temporary tag usage~~] suggests that misuse or fraud has occurred as described in Transportation Code §503.0633(f) or §503.0671. [~~§§503.038, 503.0632(f), or 503.067.~~]

[(l) Unused temporary tag allotments from a calendar year do not roll over to subsequent years.]

§215.154. Dealer's Temporary License Plate Allocation.

(a) The number of dealer's temporary license plates a dealer may order for business use is based on the type of license for which the dealer applied and the number of vehicles the dealer sold during the previous year.

(b) Unless otherwise qualified under this section, the maximum number of dealer's temporary license plates the department will issue to a new license applicant during the applicant's first license term is indicated in the following table.
Figure: 43 TAC §215.154(b)

(c) A person holding a dealer license on July 1, 2025, is eligible to receive the following maximum number of dealer's temporary plates:

(1) the number designated for that license type in subsection (b) of this section; and

(2) the number designated in subsection (e) of this section based on vehicle sales in the last 12-month period.

(d) A dealer that applies for a license is not subject to the initial allotment limits described in this section and may rely on that dealer's existing allocation of dealer's temporary license plates if that dealer is:

(1) a franchised dealership subject to a buy-sell agreement, regardless of a change in the entity of ownership;

(2) any type of dealer that is relocating and has been licensed by the department for a period of one year or longer; or

(3) any type of dealer that is changing its business entity type and has been licensed by the department for a period of one year or longer.

(e) A dealer may obtain more than the maximum number of dealer's temporary license plates provided by this section by submitting to the department proof of sales for the previous 12-month period that justifies additional license plates.

(1) The number of additional dealer's temporary license plates the department will issue to a dealer that demonstrates need through proof of sales is indicated in the following table.
Figure: 43 TAC §215.154(e)(1)

(2) For purposes of this section, proof of sales for the previous 12-month period may consist of a copy of the most recent vehicle inventory tax declaration or monthly statements filed with the taxing authority in the county of the dealer's licensed location. Each copy must be stamped as received by the taxing authority.

(f) A wholesale motor vehicle dealer may obtain more than the maximum number of dealer's temporary license plates provided by this section by submitting to the department proof of the number of vehicles the dealer has purchased in the previous 12-month period that justifies additional license plates.

(1) Evidence of the wholesale motor vehicle dealer's vehicle purchases for the previous 12-month period must include the date of purchase, VIN of the vehicle purchased, and the selling dealer's name, and any other information the department in its discretion deems necessary to determine the need for additional dealer's temporary license plates for the wholesale motor vehicle dealer.

(2) Upon review and approval of a wholesale motor vehicle dealer's proof of vehicle purchases documentation, the department shall issue up to 5 additional dealer's temporary license plates to the dealer.

(g) The Director of the Motor Vehicle Division may waive the dealer's temporary license plate issuance restrictions if the waiver is essential for the continuation of the business. The director will determine the number of dealer's temporary license plates the department will issue based on the dealer's past sales, dealer's inventory, and any other factor the Director determines pertinent.

(1) A request for a waiver must be submitted to the director in writing and specifically state why the additional dealer's temporary license plates are necessary for the continuation of the dealer's business.

(2) A request for a waiver must be accompanied by proof of the dealer's sales for the previous 12-month period, if applicable.

§215.155. Buyer's License Plates [Temporary Tags].

(a) A dealer may issue and secure a buyer's general issue license plate or set of plates or a buyer's temporary license plate [temporary tag may be displayed] only on a vehicle:

(1) from the selling dealer's inventory; and

(2) that can be legally operated on the public streets and highways; and

(3) for which a sale or lease has been consummated; and

(4) that has a valid inspection in accordance with Transportation Code Chapter 548, unless:

(A) an inspection is not required under Transportation Code §503.063(i) or (j); or

(B) the vehicle is exempt from inspection under Chapter 548.

(b) A dealer may not issue a buyer's general issue or temporary license plate [temporary tag must be issued and provided] to the buyer of a vehicle that is to be titled but not registered [but the temporary tag must not be displayed on the vehicle].

(c) For a wholesale transaction:[,]

(1) a dealer may not issue a buyer's license plate; rather the purchasing dealer places on the motor vehicle its own:

(A) [(1)] dealer's temporary license plate [tag]; or

(B) [(2)] dealer's standard or personalized prestige license plate.

(2) if a general issue plate or set of plates is assigned to a vehicle, the selling dealer must provide the license plate or set of plates to the purchasing dealer for placement on the vehicle at time of retail sale.

(d) A buyer's temporary license plate [tag] is valid until the earlier of:

(1) the date on which the vehicle is registered; or

(2) the 60th day after the date of purchase.

[(e) The dealer or governmental agency, must ensure that the following information is placed on a buyer's temporary tag:]

[(1) the vehicle-specific number obtained from the temporary tag database;]

[(2) the year and make of the vehicle;]

[(3) the VIN of the vehicle;]

[(4) the month, day, and year of the expiration of the buyer's temporary tag; and]

[(5) the name of the dealer or governmental agency.]

(e) [(f)] A dealer shall charge a buyer a fee of $10 [$5 for the buyer's temporary tag or Internet-down buyer's temporary tag issued], unless the vehicle is exempt from payment of registration fees under Transportation Code, §502.453 or §502.456. A dealer shall remit the fee to the county with the title transfer application for deposit to the credit of the Texas Department of Motor Vehicles fund. If the vehicle is sold by a dealer to an out-of-state resident:

(1) the dealer shall remit the entire fee to the department for deposit to the credit of the Texas Department of Motor Vehicles fund if payment is made through the department's designated electronic system [electronic title system]; or

(2) the dealer shall remit the fee to the county for deposit to the credit of the Texas Department of Motor Vehicles fund.

(f) [(g)] A governmental agency may charge a buyer a fee of $10 [$5 for the buyer's temporary tag or Internet-down buyer's temporary tag issued,] unless the vehicle is exempt from payment of registration fees under Transportation Code, §502.453 or §502.456. If collected by a governmental agency, the fee must be sent to the county for deposit to the credit of the Texas Department of Motor Vehicles fund.

§215.156. Buyer's License Plate [Temporary Tag] Receipt.

A dealer[,] or [federal, state, or local] governmental agency[,] must print a buyer's license plate receipt from the department's designated electronic system and provide the [a buyer's temporary tag] receipt to the buyer of each vehicle for which a buyer's license plate or set of license plates is issued. [temporary tag is issued, regardless of whether the buyer's temporary tag is issued using the temporary tag database or if the tag is a preprinted Internet-down temporary tag. The dealer, or federal, state, or local governmental agency, may print the image of the buyer's temporary tag receipt issued from the temporary tag database or create the form using the same information.] The dealer[,] or [federal, state, or local] governmental agency, shall instruct the buyer to keep a copy of the buyer's license plate [temporary tag] receipt in the vehicle until the vehicle is registered in the buyer's name and the vehicle registration insignia is affixed to the motor vehicle windshield or plate, as applicable [and until metal plates are affixed to the vehicle]. The buyer's license plate [temporary tag] receipt must include the following information:

(1) the issue date of the buyer's license plate or set of plates [temporary tag];

(2) the year, make, model, body style, color, and VIN of the vehicle sold;

(3) the license plate [vehicle-specific temporary tag] number;

(4) [the expiration date of the temporary tag;]

[(5)] the date of the sale;

(5) [(6)] the name of the issuing dealer and the dealer's license number or the name of the issuing federal, state, or local governmental agency; [and]

(6) [(7)] the buyer's name and mailing address; and[.]

(7) the procedure by which the vehicle's registration insignia will be provided to the buyer as required under Transportation Code, §503.0631.

§215.157. Issuing Buyer's License Plates and License Plate Receipts When Internet Not Available. [Advance Numbers, Preprinted Internet-down Temporary Tags].

[(a)] In accordance with Transportation Code, §503.0631(d), [a dealer, or a federal, state, or local governmental agency, may obtain an advance supply of preprinted Internet-down temporary tags with specific numbers and buyer's temporary tag receipts to issue in lieu of buyer's temporary tags if the dealer is unable to access the internet.]

[(b)] if [If] a dealer[,] or [a federal, state, or local] governmental agency[,] is unable to access the internet at the time of a sale, the dealer[,] or [a federal, state, or local] governmental agency [, must complete the preprinted Internet-down temporary buyer's tag and buyer's temporary tag receipt by providing details of the sale, signing the buyer's temporary tag receipt, and retaining a copy. The dealer, or a federal, state, or local governmental agency,] must document the issuance of a buyer's general issue license plate or set of plates or a buyer's temporary license plate on a receipt form prescribed by the department and enter the required information regarding the sale in the license plate system [temporary tag database] not later than the close of the next business day [that the dealer has access to the internet]. The buyer's license plate [temporary tag] receipt must include a statement that the dealer [, or a federal, state, or local] or governmental agency, has internet access but, at the time of the sale, the dealer or[, or a federal, state, or local] governmental agency, was unable to access the internet or the license plate system and meet the requirements in §215.156 of this title (relating to Buyer's License Plate Receipt) [temporary tag database].

§215.158. General Requirements for Buyer's License Plates [and Allocation of Preprinted Internet-down Temporary Tag Numbers].

(a) A [The] dealer[,] or [a federal, state, or local] governmental agency[,] is responsible for the safekeeping of all license plates in the dealer's or governmental agency's possession consistent with the requirements in §215.150 (relating to Dealer Authorization to Issue License Plates). [preprinted Internet-down temporary tags and shall store them in a secure place, and promptly destroy any expired tags.] A [The] dealer[,] or [a federal, state, or local] governmental agency shall report any loss, theft, or destruction of a buyer's license plate [preprinted Internet-down temporary tags] to the department in the system designated by the department within 24 hours of discovering the loss, theft, or destruction. A dealer or governmental agency is also encouraged to immediately alert law enforcement by reporting a stolen license plate to a local law enforcement agency.

(b) When a dealer is required to remove and void a previously assigned general issue plate or set of plates or other type of license plate from a vehicle sold to an out-of-state buyer or for another reason allowed by rule, the dealer shall render a void plate unusable by permanently marking the front of the plate with the word "VOID" or a large "X"; and within 10 days:

(1) destroy the license plate or set of plates; or

(2) recycle the license plate or set of license plates using a metal recycler registered under Occupations Code, Chapter 1956; or

(3) return the license plate or set of plates to the department or county tax assessor-collector.

(c) A dealer or governmental agency must return all buyer's license plates in the dealer's possession to the department within 10 days of closing the associated license or within 10 days of the associated license being revoked, canceled, or closed by the department.

[(b) A dealer, or a federal, state, or local governmental agency, may use a preprinted Internet-down temporary tag up to 12 months after the date the preprinted Internet-down temporary tag is created. A dealer, or a federal, state, or local governmental agency, may create replacement preprinted Internet-down temporary tags up to the maximum allowed, when:]

[(1) a dealer, or a federal, state, or local governmental agency, uses one or more preprinted Internet-down temporary tags

and then enters the required information in the temporary tag database after access to the temporary tag database is again available; or]

[(2) a preprinted Internet-down temporary tag expires.]

[(c) The number of preprinted Internet-down temporary tags that a dealer, or federal, state, or local governmental agency, may create is equal to the greater of:]

[(1) the number of preprinted Internet-down temporary tags previously allotted by the department to the dealer or a federal, state, or local governmental agency;]

[(2) 30; or]

[(3) 1/52 of the dealer's, or federal, state, or local governmental agency's, total annual sales.]

[(d) For good cause shown, a dealer, or a federal, state, or local governmental agency, may obtain more than the number of preprinted Internet-down temporary tags described in subsection (c) of this section. The director of the Motor Vehicle Division of the department or that director's delegate may approve, in accordance with this subsection, an additional allotment of preprinted Internet-down temporary tags for a dealer, or a federal, state, or local governmental agency, if the additional allotment is essential for the continuation of the dealer's, or a federal, state, or local governmental agency's, business. The director of the Motor Vehicle Division of the department, or a federal, state, or local governmental agency, or that director's delegate will base the determination of the additional allotment of preprinted Internet-down temporary tags on the dealer's, or a federal, state, or local governmental agency's, past sales, inventory, and any other factors that the director of the Motor Vehicle Division of the department or that director's delegate determines pertinent, such as an emergency. A request for additional preprinted Internet-down temporary tags must specifically state why the additional preprinted Internet-down temporary tags are necessary for the continuation of the applicant's business.]

[(e) Preprinted Internet-down temporary tags created under subsection (c) of this section apply to the maximum tag limit established in §215.152 of this title (relating to Obtaining Numbers for Issuance of Temporary Tags) when the preprinted tag is entered into the temporary tag database as a sale.]

§215.160. Duty to Identify Motor Vehicles Offered for Sale as Rebuilt.

(a) For each motor vehicle a dealer displays or offers for retail sale and which the dealer knows has been a salvage motor vehicle as defined by Transportation Code, §501.091(15) and has subsequently been issued a title [titled under Transportation Code, §501.100], a dealer shall disclose in writing that the motor vehicle has been repaired, rebuilt, or reconstructed. The written disclosure must:

(1) be visible from outside of the motor vehicle; and

(2) contain lettering that is reasonable in size, stating as follows: "This motor vehicle has been repaired, rebuilt or, reconstructed after formerly being titled as a salvage motor vehicle."

(b) Upon the sale of a motor vehicle which has been a salvage motor vehicle as defined by Transportation Code, §501.091(15) and subsequently issued a title [titled under Transportation Code, §501.100], a dealer shall obtain the purchaser's signature on the vehicle disclosure form or on an acknowledgement written in fourteen point or larger font that states as follows: *"I, (name of purchaser), acknowledge that at the time of purchase, I am aware that this vehicle has been repaired, rebuilt, or reconstructed and was formerly titled as a salvage motor vehicle."*

(c) The purchaser's acknowledgement as required in subsection (b) of this section may be incorporated in a Buyer's Order, a Purchase Order, or other disclosure document. This disclosure requires a separate signature.

(d) An original signed acknowledgement or vehicle disclosure form required by subsection (b) of this section must be given to the purchaser and a copy of the signed acknowledgement or vehicle disclosure form shall be retained by the dealer in the records of motor vehicles sales required by §215.144 of this title (relating to Vehicle Records). If the acknowledgement is incorporated in a Buyer's Order, a Purchase Order, or other disclosure document, a copy of that document must be given to the purchaser and a copy retained in the dealer's records in accordance with §215.144.

(e) This section does not apply to a wholesale motor vehicle auction.

§215.162. Catalytic Converter Record Requirements.

A dealer that repairs a motor vehicle with a catalytic converter shall:

(1) comply with the recordkeeping requirements in Occupations Code, Chapter 2305, Subchapter D; and

(2) allow the department to inspect these records during business hours.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Laura Moriaty
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Texas Department of Motor Vehicles
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43 TAC §§215.151, 215.153, 215.154, 215.159

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department proposes repeals to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631 which requires the department to

adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; §503.0633 which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §520.0071 which requires the board to adopt rules classifying deputies performing titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds that may be required by a county tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021 which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts repeals under the authority of Transportation Code, §§501.0041, 502.0021, 503.002, 504.0011, and 520.003; and Government Code, §2001.004 and §2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503. Transportation Code, §504.0011 authorizes the board to adopt rules to implement and administer Chapter 504. Transportation Code, §520.003 authorizes the department to adopt rules to administer Chapter 520.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These proposed repeals implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501-504, 520, and 1001-1005.

§215.151. Temporary Tags, General Use Requirements, and Prohibitions.

§215.153. Specifications for All Temporary Tags.

§215.154. Dealer's Temporary Tags.

§215.159. Converter's Temporary Tags.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER E. LESSORS AND LEASE FACILITATORS

43 TAC §215.178

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department proposes amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631 which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; §503.0633 which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §520.0071 which requires the board to adopt rules classifying deputies performing titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds that may be required by a county tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021 which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §§501.0041, 502.0021, 503.002, and 520.003; and Government Code, §2001.004 and §2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the board to adopt rules for the administration of Transportation Code, Chapter

503. Transportation Code, §520.003 authorizes the department to adopt rules to administer Chapter 520.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These proposed amendments implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501-503, 520, and 1001-1005.

§215.178. Records Required for Vehicle Lessors and Vehicle Lease Facilitators.

(a) Vehicle purchase, leasing, and sales records. A vehicle lessor or vehicle lease facilitator shall maintain a complete record of all vehicle purchases, leases, and sales of leased vehicles for at least one year after the expiration of the vehicle lease.

(1) Complete records reflecting vehicle lease transactions that occurred within the preceding 24 months must be maintained at the licensed location. Records for prior time periods may be kept off-site.

(2) Within 15 days of receipt of a department records request [~~from a representative of the department~~], a vehicle lessor or vehicle lease facilitator shall deliver a copy of the specified records to the address listed in the request.

(b) Content of records for lease transaction. A complete record for a vehicle lease transaction must contain:

(1) the name, address, and telephone number of the vehicle lessor;

(2) the name, mailing address, physical address, and telephone number of each vehicle lessee;

(3) the name, address, telephone number, and license number of the lease facilitator;

(4) the name, work address, and telephone number of each employee of the vehicle lease facilitator that handled the transaction;

(5) a complete description of the vehicle involved in the transaction, including the VIN;

(6) the name, address, telephone number, and GDN of the dealer selling the vehicle, as well as the franchised dealer's license number if the vehicle is a new motor vehicle;

(7) the amount of fee paid to the vehicle lease facilitator or a statement that no fee was paid;

(8) a copy of the buyer's order and sales contract for the vehicle;

(9) a copy of the vehicle lease contract;

(10) a copy of all other contracts, agreements, or disclosures between the vehicle lease facilitator and the consumer lessee; and

(11) a copy of the front and back of the manufacturer's statement of origin, manufacturer's certificate of origin, or the title of the vehicle, as applicable.

(c) Content of records for sale of leased vehicle. A vehicle lessor's complete record for each vehicle sold at the end of a lease to a lessee, a dealer, or at a wholesale motor vehicle auction must contain:

(1) the date of the purchase;

(2) the date of the sale;

(3) the VIN;

(4) the name and address of the person selling the vehicle to the vehicle lessor;

(5) the name and address of the person purchasing the vehicle from the vehicle lessor;

(6) except for a purchase or sale where the Tax Code does not require payment of motor vehicle sales tax, a tax assessor-collector receipt marked paid;

(7) a copy of all documents, forms, and agreements applicable to a particular sale, including a copy of:

(A) the title application;

(B) the work-up sheet;

(C) the front and back of manufacturer's certificate of origin or manufacturer's statement of origin, unless the title is obtained through webDEALER as defined in §217.71 of this title (relating to Automated and Web-Based Vehicle Registration and Title Systems) [~~the electronic title system~~];

(D) the front and back of the title, unless the title is obtained through webDEALER as defined in §217.71 of this title [~~the electronic title system~~];

(E) the factory invoice;

(F) the sales contract;

(G) the retail installment agreement;

(H) the buyer's order;

(I) the bill of sale;

(J) any waiver;

(K) any other agreement between the seller and purchaser; and

(L) the purchaser's photo identification if sold to a lessee;

(8) a copy of the original manufacturer's certificate of origin, original manufacturer's statement of origin, or title for a motor vehicle offered for sale, or a properly stamped original manufacturer's certificate of origin, original manufacturer's statement of origin, or original title for a title transaction entered by a dealer into webDEALER as defined in §217.71 of this title [~~the electronic titling system by a dealer~~];

(9) the monthly Motor Vehicle Seller Financed Sales Returns, if any; and

(10) if the vehicle sold is a motor home or a towable recreational vehicle subject to inspection under Transportation Code, Chapter 548, a copy of the written notice provided to the buyer at the time of the sale, notifying the buyer that the vehicle is subject to inspection requirements.

(d) Records of advertising. A vehicle lessor or vehicle lease facilitator shall maintain a copy of all advertisements, brochures, scripts, or an electronically reproduced copy in whatever medium appropriate, of promotional materials for a period of at least 18 months. Each copy is subject to inspection upon request by the department at the business location during posted business hours.

(1) A vehicle lessor and a vehicle lease facilitator shall comply with all federal and state advertising laws and regulations, including Subchapter F of this chapter (relating to Advertising).

(2) A vehicle lessor's or vehicle lease facilitator's advertising or promotional materials may not state or infer, either directly or indirectly, that the business involves the sale of new motor vehicles.

(e) Title assignments. Each certificate of title, manufacturer's certificate of origin, or other evidence of ownership for a vehicle that has been acquired by a vehicle lessor for lease must be properly assigned from the seller in the vehicle lessor's name.

(f) Letters of representation or appointment. A letter of representation or appointment between a vehicle lessor and a vehicle lease facilitator must be executed by both parties and maintained by each party.

(g) Electronic records. Any record required to be maintained by a vehicle lessor or vehicle lease facilitator may be maintained in an electronic format, provided the electronic record can be printed at the licensed location or sent electronically upon department request except as provided by subsection (c)(8) of this section.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER C. FRANCHISED DEALERS, MANUFACTURERS, DISTRIBUTORS, AND CONVERTERS

43 TAC §215.124

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes a new section to 43 Texas Administrative Code (TAC) Subchapter C, Franchised Dealers, Manufacturers, Distributors, And Converters, §215.124, concerning mobile warranty and recall repair services which may be offered by a franchised dealer. This new section describes the circumstances under which a franchised dealer may offer mobile warranty and recall repair services consistent with the provisions of Occupations Code, Chapter 2301.

EXPLANATION.

Proposed new §215.124(a) would permit a franchised dealer to offer mobile warranty and recall repair services under a manufacturer's or distributor's warranty if these services are managed from a licensed location. A licensed location may be either a licensed sales and service location or a licensed service-only facility as described in §215.103 of this title (relating to Service-only Facility). Proposed new §215.124(a) is consistent with Occupations Code, §2301.002(16)(B), which defines a franchised dealer as a person who holds a franchised dealer's license under Occupations Code, Chapter 2301 and a GDN under Transportation Code, Chapter 503, and is "engaged in the business of buying, selling, or exchanging new motor vehicles and servicing or repairing motor vehicles under a manufacturer's warranty at an established and permanent place of business under a franchise in effect with a manufacturer or distributor."

Proposed new §215.124(b) would define the circumstances in which the department considers mobile warranty and recall repair services to be managed from a licensed location by a franchised dealer. This subsection enumerates the three circumstances, which are: 1) if a franchised dealer authorizes a mobile warranty or recall repair from the dealer's licensed location, 2) if a franchised dealer dispatches personnel, parts, or tools from the dealer's licensed location to perform a warranty or recall repair at the location of a motor vehicle under warranty, or 3) if a franchised dealer maintains warranty or recall repair records at the dealer's licensed location. Proposed new §215.124(b) would define when the department considers mobile warranty or recall repair services to be managed from a licensed location by a franchised dealer and provides a franchised dealer flexibility to determine how the mobile warranty or recall services may be delivered.

Proposed new §215.124(c) would allow a franchised dealer to subcontract mobile warranty or recall repair services with a manufacturer's or distributor's prior written approval, which may not be unreasonably withheld, and requires the franchised dealer to pay a subcontractor directly for a warranty or recall repair. Proposed new §215.124(c) implements a franchised dealer's responsibility for performing warranty obligations under Occupations Code, §2301.353 and is consistent with the requirements for subcontracting by franchised dealers in §215.103 of this title, relating to Service-only Facility.

Proposed new §215.124(d) would state that a person with whom a franchised dealer subcontracts the performance of mobile warranty or recall repair services is not eligible to obtain a service-only facility license and may not advertise the performance of warranty or recall repairs to the public. Proposed new §215.124(d) would implement the licensing requirements of Occupations Code, Chapter 2301, regarding the holding of a franchised dealer license and is consistent with the requirements for subcontracting by franchised dealers in §215.103 of this title, relating to Service-only Facility.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Glenna Bowman, Chief Financial Officer, has determined that for each year of the first five years the new section will be in effect there will be no fiscal impact to state or local governments as a result of the enforcement or administration of the proposal. Monique Johnston, Director of the Motor Vehicle Division (MVD), has determined that there will be no measurable effect on local employment or the local economy as a result of the proposal.

PUBLIC BENEFIT AND COST NOTE. Ms. Johnston has also determined that, for each year of the first five years the new section is in effect, there are several public benefits anticipated because, in addition to performing warranty and recall repair services at a dealership, a franchised dealer may offer mobile warranty or recall repair services to a broad range of individual, business, and government agency customers without the necessity of a customer being required to drive or tow a vehicle to a dealership.

Anticipated Costs To Comply With The Proposal. Ms. Johnston anticipates that there will be no costs to comply with this rule as the decision whether to offer mobile warranty or recall services is one that each licensed franchised dealer may make.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. As required by the Government Code, §2006.002, the department has determined that the proposed new section will not have an adverse economic effect on small

businesses or micro-businesses because a small or micro-business is not required to offer mobile warranty or recall repair services. The new section may have a positive impact on rural communities because in January 2024, multiple franchised dealers from small communities expressed support for the opportunity to offer mobile warranty repair services in response to proposed amendments to a related rule, §215.103, Service-only Facility. The proposed new section does not require small businesses, micro-businesses, or rural communities to pay a fee or incur any costs to comply with this new rule as the offering of mobile warranty or recall repair services is optional. Therefore, the department is not required to prepare a regulatory flexibility analysis under Government Code, §2006.002.

TAKINGS IMPACT ASSESSMENT. The department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT. The department has determined that each year of the first five years the proposed new section is in effect, no government program would be created or eliminated. Implementation of the proposed new section would not require the creation of new employee positions or elimination of existing employee positions. Implementation would not require an increase or decrease in future legislative appropriations to the department or an increase or decrease of fees paid to the department. The proposed new section does create a new regulation and does not expand, limit, or repeal an existing regulation. Lastly, the proposed new section does not affect the number of individuals subject to the rule's applicability and will not affect this state's economy.

REQUEST FOR PUBLIC COMMENT.

If you want to comment on the proposal, submit your written comments by 5:00 p.m. Central Time CDT on August 12, 2024. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

STATUTORY AUTHORITY. The department proposes new §215.124 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, and Government Code, §2001.004 which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

CROSS REFERENCE TO STATUTE. These adopted revisions implement Government Code, Chapter 2001; Occupations Code, Chapter 2301; and Transportation Code, Chapters 503, 1001, and 1002.

§215.124. Mobile Warranty and Recall Repair Services.

(a) A franchised dealer may offer mobile warranty or recall repair services under a manufacturer's or distributor's warranty if these services are managed from a licensed location, which may be either a licensed sales and service location or a licensed service-only facility as described in §215.103 of this title (relating to Service-only Facility).

(b) The department considers mobile warranty or recall repair services to be managed from a licensed location if a franchised dealer at a licensed location:

(1) authorizes a mobile warranty or recall repair;

(2) dispatches personnel, parts, or tools to perform a warranty or recall repair at the location of a motor vehicle under warranty; or

(3) maintains warranty or recall repair records.

(c) Upon the manufacturer's or distributor's prior written approval, which cannot be unreasonably withheld, a franchised dealer of the manufacturer or distributor may contract with another person as a subcontractor to perform mobile warranty or recall repair services that the dealer is authorized to perform under a franchise agreement with a manufacturer or distributor. Payment shall be made by the franchised dealer to the subcontractor and not by the manufacturer or distributor to the subcontractor.

(d) A person with whom a franchised dealer contracts to perform mobile warranty or recall repair services is not eligible to obtain a service-only facility license and may not advertise the performance of warranty repair or recall services to the public.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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CHAPTER 217. VEHICLE TITLES AND REGISTRATION

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes amendments, a new section and repeals to 43 Texas Administrative Code (TAC) Chapter 217, Subchapter A, Motor Vehicle Titles; §§217.2 - 217.9, 217.11, and 217.14 - 217.16; Subchapter B, Motor Vehicle Registration, §§217.22, 217.23, 217.25 - 217.29, 217.33, 217.36, 217.37, 217.40, 217.41, 217.43, 217.45, 217.46, 217.50 - 217.56; Sub-

chapter C, Registration and Title Systems, §§217.71, 217.74, and 217.75; Subchapter D, Nonrepairable and Salvage Motor Vehicles, §§217.81 - 217.86, 217.88, and 217.89; Subchapter E, Title Liens and Claims, §217.106; Subchapter F, Motor Vehicle Records, §§217.122 - 217.125, 217.129, and 217.131; Subchapter G, Inspections §217.143 and §217.144; Subchapter H, Deputies, §§217.161, 217.166 and 217.168; Subchapter I, Fees, §§217.181 - 217.185; Subchapter J, Performance Quality Recognition Program, §217.205; and Subchapter L, Assembled Vehicles, §217.404. The department proposes new §217.31. Repeals are proposed for §217.34 and §217.87.

The proposed amendments, new section and repeals are necessary to bring the rules into alignment with statute; to remove language that is redundant with statute; to clarify the purpose of a rule by amending the title and language; to clarify existing requirements; to modernize language and improve readability through the use of consistent terminology; to clarify or delete unused, archaic, or inaccurate definitions, terms, and references; and to more specifically describe the department's methods and procedures.

Amendments are also proposed to implement House Bill (HB) 718, 88th Legislature, Regular Session (2023), which amended various sections in Transportation Code, Chapters 501, 502, 503, 504, 520, and 548 to remove provisions authorizing a vehicle dealer or converter to issue a temporary tag for a vehicle and replaced these tags with categories of license plates, effective July 1, 2025. Accordingly, HB 718 requires a motor vehicle dealer to issue to a person who buys a vehicle from the dealer a license plate or a set of license plates. HB 718 requires the department to determine new distribution methods, systems, and procedures; set certain fees; and adopt related rules by December 1, 2024. Beginning July 1, 2025, if a motor vehicle is sold to a Texas resident, a Texas dealer will assign a license plate to the vehicle unless the buyer has a specialty or other qualifying license plate, and the assigned license plate will stay with the vehicle if the vehicle is later sold to another Texas buyer.

Additionally, amendments are proposed to implement HB 3297, 88th Legislature, Regular Session (2023), which amended various sections in Transportation Code, Chapters 502, 547, and 548. HB 3297 repealed Transportation Code provisions mandating vehicle safety inspections for noncommercial vehicles but maintained safety inspections for commercial vehicles and vehicle emissions inspections for vehicles in certain counties. HB 3297 is effective January 1, 2025.

The department is also conducting a review of its rules in Chapter 217 in compliance with Government Code, §2001.039. Notice of the department's plan to review Chapter 217 is published in this issue of the *Texas Register.* As a part of the rule review, the department is proposing necessary amendments and repeals to update and streamline the rule text, bringing it into compliance with statute and with current department procedure.

In 2019, the Sunset Commission recommended the board establish advisory committees and adopt rules regarding standard advisory committee structure and operating criteria. The board adopted rules in 2019 and advisory committees have since provided valuable input on rule proposals considered by the board for proposal or adoption. In February and March 2024, the department provided an early draft of rule changes implementing HB 718 and HB 3297 to three department advisory committees, the Vehicle Titles and Registration Advisory Committee (VTRAC), the Motor Vehicle Industry Regulation Advisory Committee (MVIRAC), and the Customer Service and Protection Advisory Committee (CSPAC). Committee members voted on formal motions and provided informal comments on other provisions. Additionally, stakeholders including the Texas Automobile Dealers Association (TADA), the Texas Independent Automobile Dealers Association (TIADA), the Texas Recreational Vehicle Association (TRVA), and the Texas Motorcycle Dealers Association (TMDA) provided feedback and input on one or more rule proposals. Due to the delayed effective dates of HB 718 and HB 3297, it is necessary to delay the effective dates of the rules implementing those bills. As a result, the amendments to §§217.4, 217.27 and 217.89 are proposed to be effective January 1, 2025, and proposed amendments to §§217.8, 217.16, 217.40, 217.46, 217.52, 217.168, 217.182 and 217.185 are proposed to be effective July 1, 2025.

EXPLANATION.

Subchapter A. Motor Vehicle Titles

Proposed amendments to §217.2 would delete the definitions for "all-terrain vehicle or ATV" "house moving dolly," "implements of husbandry," "obligor," "off-highway vehicle," "recreational off-highway vehicle or ROV," "sand rail," and "utility vehicle or UTV" because none of these terms are used in proposed amended Chapter 217. Another proposed amendment would add a new definition for "current photo identification" in new §217.2(4), using language that currently appears in §217.5(d)(4) to allow the department the flexibility to accept government-issued photo identification within 12 months of the expiration date, as well as state-issued personal identification certificates that do not have expiration dates. The remaining paragraphs in §217.2 are proposed to be renumbered accordingly. A proposed amendment to §217.2(25) would delete subparagraphs A, B, and C from the definition of "verifiable proof," as those subparagraphs are unnecessary and duplicative of language in §217.7, relating to Replacement of Title.

A proposed amendment to the introductory sentence in §217.3 would add the words "or this subchapter" to clarify that the rules in 43 TAC Chapter 217, Subchapter A, relating to Motor Vehicle Titles, regulate applications for title by motor vehicle owners. A proposed amendment would delete §217.3(1)(B) to remove unnecessary language that is duplicative of the definition of "moped" in §217.2 and would remove the letter for subparagraph (A) because there would only be one subparagraph in §217.3(1) due to the proposed deletion of subparagraph (B). A proposed amendment would delete §217.3(2)(A) to conform the rule to the Texas Transportation Code, Chapter 501, which does not prohibit the titling of implements of husbandry. A proposed amendment to §217.3(2)(C) would replace "farm tractors" with "tractors" to clarify that while farm tractors may be exempt from registration, tractors used to mow rights of way or to move commodities are not. Another proposed amendment would delete §217.3(2)(D) to remove unnecessary language that is duplicative of language in the Transportation Code. The remaining subsections of §217.3(2) are proposed to be renumbered accordingly. A proposed amendment to §217.3(4) would delete the portion of the paragraph reciting the weight requirements for mandatory titling of trailers, as well as the portion of the paragraph stating that trailers under 4,000 pounds may be permissively titled, to remove unnecessary language that is duplicative of language in the Transportation Code.

A proposed amendment to §217.4(d)(4) would delete language requiring completion of a vehicle inspection under Transportation Code, Chapter 548 for all title applications, and substitute language specifying that for vehicles last registered in another state,

applicants must verify the vehicle identification number (VIN) by a process described on a department self-certification form if the vehicle is not subject to Transportation Code, Chapter 548. The proposed changes would implement HB 3297, which removed the vehicle safety inspection as a prerequisite for registration and titling while still allowing the department to deter fraud by verifying the VINs of out-of-state vehicles. The proposed amendment also clarifies that if an applicant is registering or titling a vehicle in a county subject to emissions testing, the emissions testing requirements must be satisfied. A proposed amendment to §217.4(d)(5) would delete paragraphs (A) and (B) and re-organize the rule accordingly. The proposed deletion of paragraphs (A) and (B) would remove language that is unnecessary because it is duplicative of language in the Transportation Code. These amendments to §217.4 are proposed for a future effective date of January 1, 2025, in accordance with the effective date of HB 3297.

A proposed amendment to §217.5(a)(1)(A) would add new requirements for a manufacturer's certificate of origin (MCO). Proposed new §217.5(a)(1)(A)(i) would require that a manufacturer's name be listed on the MCO, to eliminate confusion as to the name of the manufacturer when shortened versions or abbreviations of a manufacturer's name are printed on an MCO. Proposed new §217.5(a)(1)(A)(vi) would require listing seating capacity (number of passengers) for motor bus MCOs, to help the department to quickly determine based on the seating capacity whether a vehicle should be registered or titled as a bus. The remainder of §217.5(a)(1)(A) would be renumbered accordingly.

Section 217.5(a)(2) sets requirements for the evidence of motor vehicle ownership that must accompany an application for title on a used motor vehicle. The proposed amendment to §217.5(a)(2), would delete vague language relating to "other evidence of ownership," because the term is confusing and does not offer clear guidance to the public as to the type of ownership evidence that is acceptable to the department. Proposed new paragraphs §217.5(a)(2)(A) - (E) would clarify the application requirements by listing the specific types of evidence of ownership that must be submitted as part of a title application, reflecting current department procedure.

A proposed amendment to §217.5(a)(4)(C)(ii) would modernize the rule by deleting a reference to "an original United States Customs stamp" that is not required under relevant statutes governing importation of motor vehicles. A proposed amendment to §217.4(a)(4)(C)(v) would insert a hyphen into the phrase "non United States" to correct a grammatical error.

A proposed amendment to §217.5(b)(4) would change the case of the term "Statement of Fact" from upper to lower case to correct a syntax error. A proposed amendment to §217.5(d)(1) would remove "and expiration date" and replace "document" with "current photo identification" to employ the proposed new defined term. An additional proposed amendment to §217.5(d)(1) would delete "concealed handgun license or," as this term is not used in the Texas Government Code. Another proposed amendment would delete the definition of "current" from §217.5(d)(4) because it is proposed to be moved to new §217.2(4). The remaining subsections of §217.5(d) would be renumbered accordingly. The proposed amendment to §217.5(d)(7) would remove an inaccurate reference to Occupations Code, Chapter 2301 as the source for issuing a general distinguishing number (GDN).

A proposed amendment to §217.6 would add a new subsection (d) clarifying the requirements for the department to place a hold on processing a title application under Transportation Code, §501.051(d). Proposed new §217.6(d)(1) clarifies the requirements for evidence of a legal action regarding ownership of a lien interest in a motor vehicle by specifying that the evidence must show a legal action that was filed in a district, county, statutory probate, or bankruptcy court. Proposed new §217.6(d)(1) would allow the parties to maintain the status quo in a legal dispute over a motor vehicle by placing a hold on the transfer of the title until the dispute is resolved, without the necessity of obtaining a temporary injunction against the department. This would enhance procedural efficiency for the department and save resources for both the department and the parties involved in the legal dispute.

Proposed new §217.6(d)(2) would clarify that evidence of a legal action filed in a municipal or justice of the peace court is not sufficient evidence for a title processing hold unless the legal action is related to Code of Criminal Procedure, Chapter 47 or Government Code, §27.031. This proposed amendment would make the rule consistent with Transportation Code, §501.0521, which states that a justice of the peace or municipal court may not issue an order related to a motor vehicle title except in limited circumstances.

Proposed new §217.6(d)(3) would clarify that to qualify for a title processing hold, the legal action regarding ownership of or a lien interest in a motor vehicle must be active on a court's docket, and that evidence of a legal action that has been resolved through a final nonappealable judgment will not support placing of a title processing hold. Proposed new §217.6(d)(5) would define "final nonappealable judgment" as one for which 30 days have passed from the date of judgment without appeal, to eliminate ambiguity as to what constitutes a non-appealable judgment for the purposes of releasing a title processing hold. When there is a final nonappealable judgment, proposed new §217.6(d)(3) would require evidence of post-judgment legal action before the department could place a hold on processing a title. These proposed amendments would make the department's procedures consistent with Transportation Code, §501.051(d), which states that a hold is terminated when a case is resolved by a final judgment.

Proposed new §217.6(d)(4) would require the department to place a ten-day temporary hold when a party submits the vehicle's VIN and an explanation of why the hold is requested. This proposed amendment would reflect the current department practice of providing a temporary 10-day processing hold to allow a party to time to file a lawsuit and to present evidence of the legal action to the department. The proposed amendment would acknowledge that title or lienholders who are challenging legal bonded title applications or engaged in other types of disputes related to their title or lien interests, need time to prepare a legal action. Proposed new §217.6(d)(4) would require a party to submit a VIN for the vehicle at issue because title processing holds are placed in the department's record system by VIN. Proposed new §217.6(d)(4) would also require a party to attest that the temporary hold is being requested in order to commence a legal action disputing a title or lien interest in a motor vehicle and not for purposes of delay, to ensure that the temporary hold is in furtherance of Transportation Code, §501.051(d).

Proposed amendments to §217.7 would implement the proposed new defined term "current photo identification" in §217.2(4) by adding it §217.7(b)(1) in place of "document," adding it to §217.7(b)(3)(A) - (C) and deleting the definition of "current" from §217.7(b)(4). The remaining subsections of §217.7(b) are proposed to be renumbered accordingly. These

proposed amendments would improve readability of the rule and ensure consistent use of terminology throughout the subchapter. A proposed amendment to §217.7(b)(1)(F) would delete the phrase "concealed handgun license" because Government Code, Chapter 411 does not use the term "concealed handgun license" and this type of license is no longer required by law.

The proposed amendments to §217.8 would implement HB 718, which amended Transportation Code, §501.147 to mandate that dealers holding a GDN submit notifications to the department of sales or transfers of motor vehicles to the dealer. A proposed amendment to §217.8(a) would remove dealers that hold a GDN from the rule on voluntary notifications to the department since notification is now mandatory rather than voluntary under Transportation Code, §501.147, as amended by HB 718. Proposed new §217.8(b) would require dealers with a GDN to submit notifications to the department of sales or transfers of motor vehicles to the dealer, including all information required under Transportation Code, §501.147(b), as amended by HB 718. Proposed new §217.8(b) would also clarify that dealers with a GDN can submit the written notification to the department through a variety of methods, including electronically through the department's website portal, as is required by Transportation Code, §501.147, as amended by HB 718. The other subsections of §217.8 are proposed to be renumbered accordingly to accommodate the addition of proposed new §217.8(b). A proposed amendment to current §217.8(b) would clarify that dealers that hold a GDN are identified as transferors for purposes of the department updating its records documenting the vehicle transfer. These amendments to §217.8 are proposed for a future effective date of July 1, 2025, in accordance with the effective date of HB 718.

Proposed amendments to §217.9(a)(1) would delete the phrase "and the surety bonding company ensures lien satisfaction or" and insert new language specifying that an applicant, rather than a surety bond company, must provide both a release of all liens and a bond. The proposed amendment would conform the rule with Transportation Code, §501.053(a)(3), which requires an applicant to produce a release of all liens with a bond and does not authorize a surety bond company to ensure lien satisfaction in lieu of a release of all liens from the relevant lienholders. A proposed amendment to §217.9(e)(7) would delete language related to certification of lien satisfaction by the surety bond company and a notice of determination letter. This proposed amendment would make the paragraph consistent with the proposed amendment to §217.9(a)(1) and conform the rule to Transportation Code, §501.053(a)(3), which does not provide for certification of lien satisfaction by a surety bond company, but instead requires a release of all liens and a surety bond for an applicant to qualify for bonded title.

Proposed amendments to §217.11(a) would delete unnecessary and duplicative language that simply repeats requirements from Transportation Code §501.051(b), and would substitute citations to Transportation Code §501.051(b). The proposed amendments would create new paragraph (b) from former paragraph (a)(5), delete language from former paragraph (a)(5) referring to language in paragraph (a)(3)(B) that is proposed for deletion, and add language to the proposed new paragraph (b) clarifying and restating the current requirement that an affidavit for recission must be accompanied by an odometer disclosure statement if the vehicle was ever in the possession of the title applicant. The proposed amendments would also delete current §217.11(b) because it refers to language in paragraph (a)(3)(B) that is proposed for deletion. The proposed amendments would thus remove unnecessary language and improve readability.

A proposed amendment to §217.14 would delete the phrase "registered with the following distinguishing license plates" and replace it with the "eligible for machinery license plates and permit license plate, in accordance with Transportation Code, §502.146." The proposed deletion would clarify that the exemption from titling for vehicles eligible for machinery license and permit plates is not limited vehicles that have been registered and applies to all vehicles eligible for machinery license plates and permit license plates. An additional amendment would delete unnecessary language that is duplicative of statute.

A proposed amendment to §217.15(c) would implement HB 3297 by replacing a reference to a "state inspection" fee with a broader reference to any fee "under Transportation Code, Chapter 548." The proposed amendment would align the rule with HB 3297 which amended Transportation Code, Chapter 548 to eliminate the requirement for a state safety inspection. These amendments to §217.15 are proposed for a future effective date of January 1, 2025, in accordance with the effective date of HB 3297.

A proposed amendment to §217.16(f)(4) would implement HB 718 by replacing "buyer's temporary tag fee" with "fee associated with the issuance of a license plate or set of plates." The proposed amendment would align the rule with HB 718 which amended Transportation Code Chapter 503 to eliminate buyer's temporary tags. The amendments to §217.16 are proposed for a future effective date of July 1, 2025, in accordance with the effective date of HB 718.

Subchapter B. Motor Vehicle Registration.

Proposed amendments to §217.22 would add a new definition of "current photo identification" in new §217.22(11), using language that currently appears in §217.26(c) to allow the department the flexibility to accept government-issued photo identification within 12 months of the expiration date, as well as state-issued personal identification certificates that do not have expiration dates. Other proposed amendments to §217.22 would delete the definition "legally blind" in §217.22(24) because it is not used in the subchapter, and would delete the definition of "vehicle inspection sticker" in §217.22(47) to align with changes to the law to no longer require separate vehicle inspection stickers. The remaining subsections of §217.22 would be renumbered accordingly. A proposed amendment to §217.22(27) would add a citation to Transportation Code, Chapter 503 for completeness, clarity, and ease of reference. A proposed amendment to §217.22(38) would remove the phrase "under SA" to remove unnecessary and confusing wording.

Proposed amendments to §217.23(b)(1) would add a cross reference to §217.5, relating to Evidence of Motor Vehicle Ownership, for clarity and ease of reference, and would remove an unnecessary statutory reference.

Proposed amendments to §217.25 would add a reference to Transportation Code, §502.145 to clarify that the statute creates an exception to the rule: Transportation Code, §502.145 allows a nonresident owner of a privately owned passenger car that is registered in the state or country in which the person resides and that is not operated for compensation to not register in Texas as long as the car's licenses in the owner's state of residence are valid.

Proposed amendments to §217.26(a) would implement the proposed new defined term "current photo identification" in §217.22(11) by adding it §217.26(a) in place of "document," adding it to §§217.26(b)(2)(B), 217.26(b)(3), and 217.26(b)(4)(B)

in place of "government issued," deleting the definition of "current" from §217.26(c), and relettering the remaining subsections of §217.26 accordingly. A proposed amendment to §217.26(a)(6) would delete "concealed handgun license" from the list of acceptable forms of identification as this type of license is no longer required by law.

Proposed amendments to §217.27(a)(1) would add the defined term "vehicle registration insignia" for clarity and consistency and delete unused or archaic terms and references. Proposed amendments to §217.27(b) would move the carve-out for a vehicle described by Transportation Code, §621.2061 to place the rear license plate so that it is clearly visible, readable, and legible, from paragraph (b)(1), which addresses vehicles that display two plates, to paragraph (b)(2), which addresses vehicles that only display one plate. This amendment would acknowledge that vehicles described in Transportation Code, §621.2061 are carrying a load that obscures the license plate.

Proposed amendments to §217.27(c)(2)(A) implement HB 3297, which amended Transportation Code, §502.0024 to specify which vehicles may obtain a registration insignia for a period consisting of 12, 24, 36, 48 or 60 consecutive months on payment of all fees for each full year of registration. The proposed amendments to §217.27(c)(2)(A) would further implement HB 3297 by deleting outdated text that referenced vehicle inspections and sections of the Transportation Code that HB 3297 eliminated. Due to the proposed amendments implementing HB 3297, the amendments to §217.27 are proposed for a future effective date of January 1, 2025, in accordance with the effective date of HB 3297.

Proposed amendments to §217.27(d)(1)(2), (2)(A), (3), (e), (f), and (h) substitute the term "license plate number" for "alphanumeric pattern" to implement HB 718, which requires that the department issue license plates rather than temporary tags. A proposed amendment to §217.27(d)(1) would substitute the term "general issue" for the word "regular" to implement HB 718 with consistent terminology that distinguishes among types of license plates that the department will now issue.

The repeal of §217.28(e)(1) is proposed because the language is redundant with statute. The remaining sections are proposed to be renumbered accordingly. Proposed amendments would add new §217.28(e)(6) to clarify that the operation of a vehicle with an expired registration that has been stored or otherwise not in operation that is driven only to an inspection station for the purpose of obtaining an inspection if required for registration, will not affect the determination of whether the registrant has a valid or invalid reason for being delinquent. This proposed amendment will remove a deterrent to inspection and further clarify when a vehicle will be assessed delinquency penalties.

Proposed amendments to §217.29 would repeal §217.29(d) and §217.29(f) as these subsections are outdated and apply only to vehicle registrations expiring prior to January 1, 2017. The remaining subsections are proposed to be relettered accordingly. Proposed amendments to relettered §217.29(e) would remove outdated language about vehicle registrations around January 1, 2017. Proposed amendments to relettered §217.29(f) would modernize the rule by removing more outdated language about registration renewals in 2017, and by updating the wording to require the department and the department's third-party centralized vendor to promptly facilitate and mail vehicle registration insignias to applicants who submit registration renewals via the Internet.

Proposed new §217.31 would be a standalone rule regarding the federal heavy vehicle use tax (HVUT) requirements, which are imposed by 26 U.S.C. §4481, *et seq.* and 26 C.F.R. Part 41. Although the Internal Revenue Service (IRS) collects the HVUT, the department requires compliance with the HVUT requirements prior to issuing vehicle registration for applicable vehicles, to prevent the state's loss of federal-aid highway funds under 23 U.S.C. §141(c) and 23 U.S.C. §104(b)(1). The department also complies with 23 C.F.R. Part 669, which are Federal Highway Administration (FHWA) regulations regarding the enforcement of the HVUT requirements via the vehicle registration process for a highway motor vehicle as defined by the federal law on the HVUT.

Proposed new §217.31 would also incorporate by reference the IRS regulation - 26 C.F.R. §41.6001-2 - regarding the circumstances under which a state must require proof of payment of the HVUT and the required manner in which such proof of payment must be received by a state as a condition of issuing a registration for a highway motor vehicle as defined by the federal law regarding the HVUT. Section 41.6001-2(c) states that proof of payment of the HVUT consists of a receipted Schedule 1 (Form 2290 "Heavy Vehicle Use Tax Return") that is returned by the IRS, by mail or electronically. Section 41.6001-2(c) also authorizes an acceptable substitute for a receipted Schedule 1. The IRS provides guidance on its website regarding Form 2290 for the collection of the HVUT. The IRS website for Form 2290 is located at the following address: https://www.irs.gov/forms-pubs/about-form-2290.

Although the department complies with the HVUT requirements for all applicable vehicle registrations, multiple rules in Chapter 217 reference the HVUT requirements. New §217.31 would help vehicle registration applicants find the applicable HVUT requirements because new §217.31 would be titled "Heavy Vehicle Use Tax." Also, federal law imposes the requirements for the payment of the HVUT, as well as the circumstances under which a state must require proof of payment of the HVUT and the required manner in which such proof of payment must be received by a state.

Proposed amendments to §217.33 would implement HB 718 by adding the word "license" before "plate" in several places in subparagraphs (a), (b), and (d) to improve readability through the use of consistent terminology.

The repeal of §217.34 is proposed to remove language that is redundant with statute.

Amendments to §§217.36(c)(1), 217.36(c)(4), and 217.36(c)(5) are proposed to modernize language and match current practices by removing references to submitting information to the department on magnetic tape and replacing them with references to submitting information through the secure transfer portal.

Proposed amendments to §217.37 would clarify that the department and the county will only charge fees provided by statute or rule. The proposed amendments would repeal §217.37(b) because it is a restatement of the $2 fee for a duplicate registration receipt required in Transportation Code, §502.058(a).

Proposed amendments to §217.40 would implement HB 718 by creating new plate types and ensuring consistency in the terminology used to refer to the new plates in rule. In accordance with the effective date of HB 718, the amendments to §217.40 are proposed for a future effective date of July 1, 2025. Proposed amendments to §217.40(a) implement HB 718 by updat-

ing terminology and adding "special registration license plates" in addition to "special registration permits."

Proposed amendments to §217.40(b)(1) would add a statutory reference to Transportation Code, §502.434 and delete unnecessary language in §217.40(b)(1)(A)-(D) that is redundant with the statute to streamline the rule text and to improve readability and ease of reference. The remaining subsections in §217.40(b)(1) would be relettered accordingly. Proposed amendments to §217.40(b)(2) would add a reference to Transportation Code, §502.093 and delete unnecessary language in subparagraph (A) for ease of reference. A proposed amendment would delete §217.40(b)(2)(B) because it is redundant with statute, and the remaining subsections of §217.40(b)(2) would be relettered accordingly. Proposed amendments to create new §217.40(b)(2)(C) would implement HB 718 by specifying that the department will issue a license plate for an annual permit under Transportation Code, §502.093, and would also provide a definition for the term "foreign commercial motor vehicle." Proposed amendments would delete §217.40(b)(2)(C)(ii) because it is redundant with statute. Proposed amendments to §217.40(b)(3) would clarify that 72-hour permits and 144-hour permits are governed in accordance with Transportation Code, §502.094 and would delete existing language in subparagraphs (3)(A-D), and (4)(A-D) that is redundant with the statutory requirements, to streamline the rules and improve readability and consistency with other subsections.

Proposed new §217.40(c) would implement HB 718 by providing for the issuance of various categories of special registration license plates and would incorporate language that is currently §217.40(b)(5) - (6). A proposed amendment to renumbered §217.40(c)(1) would implement HB 718 by substituting "license plates" for "permits," and would remove unnecessary language that duplicates the requirements of Transportation Code, §502.095. The remaining subsections of §217.40(c) would be relettered and renumbered accordingly. Proposed new §217.40(c)(1)(C) would require a one-trip license plate to be displayed as required by §217.27(b), relating to Vehicle Registration Insignia, for clarity, ease of reference, and consistency with other subsections.

Proposed amendments to current §217.40(b)(6), proposed to be renumbered §217.40(c)(2), would substitute "license plates" for "temporary registration permits" to implement HB 718, and remove language that is redundant of Transportation Code §502.095. A proposed amendment to proposed relettered §217.40(c)(2)(A) would substitute "license plate" for "temporary permit" and "30-day license plate" for "permit" to implement HB 718. Another proposed amendment to §217.40(b)(6), proposed to be relettered as §217.40(c)(2)(A), would align the rule with statute by striking motorcycles from the list of the types of vehicles for which a 30-day license plate is available because Transportation Code §502.095 does not allow issuance of 30-day license plates to motorcycles. The remaining subsections are proposed to be relettered accordingly. Proposed new §217.40(c)(2)(B) would clarify that a 30-day license plate must be displayed as required by §217.27(b), relating to Vehicle Registration Insignia, for clarity, ease of reference, and consistency with other subsections.

A proposed amendment to current §217.40(c), which is proposed to be relettered as §217.40(d)(1), would implement HB 718 by substituting the word "special" for "temporary" and adding "or special registration license plate" for consistency with other subsections. Proposed amendments to §217.40(d)(3)(A) would delete unnecessary, redundant language. Proposed amendments to current §217.40(c)(4)(B), which is proposed to be relettered as §217.40(d)(4)(B), would delete temporary agricultural permits from being obtained through the county tax assessor-collectors' offices. This amendment would implement HB 718 and align the rule with statute because HB 718 repealed Transportation Code, §502.092. Proposed amendments to proposed relettered §217.40(d)(4)(C) would implement HB 718 by substituting "license plates" for "permits" and "temporary registration permits".

Proposed amendments to current §217.40(d), which is proposed to be relettered as §217.40(e), would implement HB 718 by adding "special registration" and "or special registration license plate" where "permit" appears throughout the subsection for consistency in the description of the new plate. The proposed amendments to current §217.40(d) would also delete unnecessary language that is redundant with statute. Proposed amendments to current §217.40(e), which is proposed to be relettered to §217.40(f), would implement HB 718 by replacing "temporary" with "special registration" and adding "or special registration license plates" wherever "permit" appears throughout the subsection, for consistency in the description of the new plate.

Proposed amendments to §217.41(b)(2)(A) would replace "regular motor vehicle license plates" with "general issue license plates" to implement HB 718, modernize language and improve readability through the use of consistent terminology. Proposed amendments to §217.41(b)(3) would update applicable statutory references governing the issuance of windshield disabled parking placards.

Proposed amendments to §217.43 would add the word "license" in multiple places to improve readability through consistent terminology.

Proposed amendments to §217.45(b)(2)(B) would remove language that is redundant with statute. Proposed amendments to §217.45(b)(4) would add the word "license" to modify "plate" in several places to implement HB 718 with consistent terminology. Proposed amendments to §217.45(c)(2)(A)(iii) would implement HB 718 by replacing "alpha numeric pattern" with "license plate number" to modernize language and improve readability with consistent terminology. Proposed amendments to §§217.45(c), (d), (e), (f), (h), and (i) would implement HB 718 with consistent terminology by adding "license" to modify "plate" in multiple places.

A proposed amendment to §217.46(a) would clarify that a motor vehicle is required to register as a commercial vehicle if it meets the definition under Transportation Code, §502.001(7) and would delete unnecessary language that repeats the statutory requirements. A proposed amendment to §217.46(b)(3)(A) would delete the words "and full trailers" because Transportation Code, §502.255 only authorizes a truck-tractor or commercial motor vehicle with a combination license plate to be used in combination with a semitrailer that has a gross weight of more than 6,000 pounds. Although Transportation Code, §502.255(e) says that for registration purposes, a semitrailer that has been converted to a trailer by means of an auxiliary axle assembly retains its status as a semitrailer, this exception under §502.255(e) is already addressed in §217.46(b)(3)(B). Another proposed amendment to §217.46(b)(3)(A) would also clarify that a truck or truck-tractor displaying a combination license plate issued under Transportation Code, §502.255 may only pull a semitrailer issued a license plate from another state to

the extent authorized under a registration reciprocity agreement under Transportation Code, §502.091 regarding registration reciprocity agreements. Transportation Code, §502.255 regarding combination license plates does not authorize a truck or truck-tractor with a combination license plate to pull a semitrailer with a license plate issued by another state; however, Transportation Code, §502.091 provides such authority if there is a registration reciprocity agreement that authorizes it.

Proposed amendments to §217.46(b)(3)(A)(i) and (ii) would modify the language because Transportation Code, §502.255(a) requires the truck or truck tractor in the combination to have a gross weight of "more than 10,000 pounds," which means a truck or truck-tractor that has a gross weight of 10,000 pounds or less does not qualify for registration under Transportation Code, §502.255. Proposed amendments to §217.46(b)(3)(A)(ix) would replace "temporary" with "special registration", replace "permits" with "special registration license plates," and replace "permits" with "license plates" to improve readability through consistent terminology. A proposed amendment to §217.46(b)(3)(B) would delete the word "full" from the term "full trailers" because the language summarizes the authority under Transportation Code, §502.255(e) for a semitrailer that has been converted to a trailer by means of an auxiliary axle assembly to retain its status as a semitrailer. Transportation Code, §502.001 defines the word "trailer," but does not define the term "full trailer." Therefore, the proposed amendment to delete the word "full" from the term "full trailers" would provide clarity. A proposed amendment to §217.46(b)(3)(D)(iii) would add the word "license" to modify "plates," to improve readability and clarity through consistent terminology. A proposed amendment would delete §217.46(b)(6) because in transit license plates under Transportation Code, §503.035 are addressed under 43 TAC §215.143. The remaining paragraphs of §217.46(b) are proposed to be renumbered accordingly.

A proposed amendment to renumbered §217.46(b)(5)(A) would replace the word "required" with the word "authorized" because a token trailer license plate is available for semitrailers that qualify for a token trailer license plate under the law. A proposed amendment to renumbered §217.46(b)(5)(B) would delete language regarding an exemption under Transportation Code, §502.094 because Transportation Code, §502.001(40) and §502.255 do not provide an exemption. Transportation Code, §502.001(40) defines a token trailer and states that a token trailer is only authorized to be operated in combination with a truck or truck-tractor that has been issued an apportioned license plate, a combination license plate or a forestry vehicle license plate. Transportation Code, §502.001(40) does not list a truck or truck-tractor registered with a special registration permit under Transportation Code, §502.094, so a special registration permit under Transportation Code, §502.094 may not be used to increase the combined gross weight of a truck or truck-tractor to pull a token trailer, even if the truck or truck-tractor is registered for a lower combined gross weight under one of the types of registration referenced in Transportation Code, §502.001(40). If the truck or truck-tractor is only authorized to operate at a higher combined gross weight (combined gross weight of the truck or truck-tractor and the token trailer) because of the authority under Transportation Code, §502.094 for a 72-/144-hour permit, then the truck or truck-tractor is operating under the registration authority under Transportation Code, §502.094, rather than the registration authority of a registration type referenced in Transportation Code, §502.001(40). However, a vehicle combination may be eligible under Transportation Code, Chapters 621 through 623 to operate at a higher gross weight than a registered gross weight of 80,000 pounds provided the vehicle combination is operated in compliance with such laws, but provisions in Transportation Code, Chapters 621 through 623 might require such vehicle combination to operate at less than 80,000 pounds gross weight even if the combination is registered for 80,000 pounds gross weight. Vehicle registration is a different issue than maximum weight authorized under Transportation Code, Chapters 621 through 623. Also, Transportation Code, §623.011 is not the only statute in Transportation Code, Chapter 623 that might authorize the vehicle combination to exceed 80,000 pounds gross weight. For these reasons, a proposed amendment to renumbered §217.46(b)(5)(B) would replace the reference to Transportation Code, §623.011 with a reference to Transportation Code, Chapters 621 through 623.

Proposed amendments to renumbered §217.46(b)(5)(D) would change the catchline from "Full trailers" to "Trailer" and would delete the word "full" from the term "full trailer" because Transportation Code, §502.255 only authorizes a semitrailer to be eligible for a token trailer license plate, and Transportation Code, §502.001 defines the word "trailer," but does not define the term "full trailer." Current §217.46(b)(3)(B) already includes the exception under Transportation Code, §502.255(e), which says that for registration purposes, a semitrailer converted to a trailer by means of an auxiliary axle assembly retains its status as a semitrailer. A proposed amendment to renumbered §217.46(b)(5)(D) would also replace the word "will" with the word "shall" before the word "not" because Government Code, §311.016 defines the word "shall" to impose a duty. Because Transportation Code, §502.255 does not authorize the department to issue a token trailer license plate for a trailer, this proposed amendment to renumbered §217.46(b)(5)(D) clarifies that the department is prohibited from issuing a token trailer license plate for a trailer. Government Code, Chapter 311 applies to each rule adopted under a code, such as the rules under Chapter 217.

A proposed amendment to §217.46(c)(1) would clarify that an applicant shall apply to the appropriate county tax assessor-collector or the department, as applicable, for commercial license plates. A proposed amendment to §217.46(c)(3)(B)(ii) would clarify the reference to the laws regarding overweight vehicles. A proposed amendment to §217.46(c)(4) would provide an option to establish ownership of a vehicle by securing a bond if no VIN or serial number can be identified, to give vehicle owners flexibility with more avenues to establish ownership. Proposed amendments to §217.46(c)(7)(D) would implement HB 718 and increase clarity through consistent terminology by replacing "temporary operating" permits with "special registration" permits and by replacing "additional weight" with "special registration license plates."

Proposed amendments to §217.46(c)(5)(C) would clarify the sentence and remove an outdated reference to an international stamp under Chapter 218 of Title 43. Transportation Code, §502.046 says that evidence of financial responsibility as required by Transportation Code, §601.051, other than for a trailer or semitrailer, shall be submitted with the application for registration under Transportation Code, §502.046. If the vehicle is registered in compliance with Chapter 218, this is evidence that Transportation Code, §601.051 does not apply because Transportation Code, §601.007(c) says that Transportation Code, Chapter 601 (other than §601.054) does not apply to a motor vehicle that is subject to Transportation Code, Chapter 643. If Transportation Code, Chapter 643 requires a motor car-

rier to register its vehicle under Chapter 643, the motor carrier must obtain such registration under 43 TAC Chapter 218 and Transportation Code, Chapter 643. The reference to registration under Chapter 218 and Transportation Code, Chapter 643 is a reference to operating authority, rather than vehicle registration as provided under Transportation Code, Chapter 502.

Proposed amendments to §217.46(c) would delete paragraphs (6) and (7) because the department is proposing new §217.31, which would provide the HVUT requirements. Federal law imposes the requirements for the payment of the HVUT, the circumstances under which a state must require proof of payment of the HVUT and the required manner in which such proof of payment must be received by a state. Proposed new §217.31 cites to the applicable federal law regarding the HVUT and incorporates the applicable IRS regulation by reference.

Proposed amendments to §217.46(d)(1) would delete language regarding fixed five-year vehicle registration terms for rental trailers and token trailers because the language is not supported by statute. Transportation Code 502.0024(a), as amended by HB 3297, states, "Payment for all applicable fees" for the entire registration period is due at the time of registration." Also, Transportation Code, §502.0024 authorizes the applicant to choose a registration term up to five years. Further, HB 2357, 82nd Legislature, Regular Session (2011) deleted language regarding a five-year registration period for a token trailer. In addition, the department does not require trailers that are registered under Transportation Code, §502.0024 to have a March 31st expiration date, unless the registration term begins on April 1st.

A proposed amendment to §217.46(e)(1) would add the word "license" to modify "plates" for improved readability and clarity through consistent terminology. In accordance with the effective date of HB 718, the amendments to §217.46 are proposed for a future effective date of July 1, 2025.

A proposed amendment to §217.50 would add the word "license" to modify "plate" for improved readability and clarity through consistent terminology. Another proposed amendment to §217.50 would delete the definition of highway construction project to remove unused, archaic language.

Proposed amendments to §217.51 would add the word "license" to modify "plate" for improved readability and clarity through consistent terminology.

Proposed amendments to §217.52 would add the word "license" to modify "plate" in multiple places to implement HB 718, and for improved readability and clarity through consistent terminology. In addition, proposed amendments to §217.52(e)(3) would add the word "special" and the term "specialty license plate" in to implement HB 718 and clarify with consistent terminology. Proposed amendments to §217.52(h)(7) would remove references to "alphanumeric patterns" and instead use "department-approved alpha numeric license plate numbers" to implement HB 718 with consistent terminology. Amendments are also proposed for §217.52(h)(7) to replace the word "pattern" with "license plate number" and to add the word "license" to modify "plate" to implement HB 718 with consistent terminology. Additionally, proposed amendments to §217.52(h)(9) would add the word "license" to modify "plates" in several places to use consistent terminology for clarity. Amendments are proposed to §217.52(k) to add "specialty" to modify "license plate" for clarity with consistent use of terminology, and to replace "will need to be remanufacturered" with "may be remanufactured" for clarity and to provide flexibility. Proposed amendments to §217.52(k)(5) add "to law enforcement" to clarify where license plate numbers and license plates must be reported stolen. Proposed amendments to §217.52(l)(1) create consistent use of the term "specialty license plates" throughout the section to implement HB 718 and to align with the terminology used in other provisions of this chapter. A proposed amendment to §217.52(l)(1)(B) deletes the word "particular" as unnecessary language. Proposed amendments to §217.52(l)(2) would update terminology by adding "specialty license plate" number and "license plate" to replace "pattern" and "alphanumeric pattern" to implement HB 718 and to be consistent in the use of terminology throughout the chapter. Proposed amendments to §217.52(m) would add the word "license" to modify "plates" in multiple places to implement HB 718 and to create consistency in terminology for clarity. Proposed amendments to §217.52(n)(1)(A) would clarify, implement HB 718, and create consistent use of terminology by replacing "pattern is an auction pattern" with "license plate number was purchased through auction." In accordance with the effective date of HB 718, the amendments to §217.52 are proposed for a future effective date of July 1, 2025.

Proposed amendments to the §217.53 section title would substitute the word "disposition" for "removal" and add "or transfer" to implement HB 718 by broadening the heading language to incorporate allowing license plates to remain with the vehicle when it is sold or transferred, while the registration insignia is removed and disposed of. Proposed amendments to §217.53(a) would implement Transportation Code, §502.491 and §504.901, as amended by HB 718, clarifying that upon the sale or transfer of a motor vehicle to a dealer that holds a GDN, general issue license plates shall be removed and retained for issuance to a subsequent purchaser or transferor of that motor vehicle and the registration insignia shall be removed and disposed of by the dealer. Proposed amendments to §217.53(b) would implement Transportation Code, §502.491(b) and §504.901(b), as amended by HB 718, by clarifying that upon the sale or transfer of a motor vehicle in which neither party is a dealer, the registration insignia and the general issue license plates remain with the motor vehicle. Proposed new §217.53(c) would implement HB 718 and mitigate the risk of license plate fraud by providing that a license plate other than a general issue license plate shall be removed by the owner of a motor vehicle that is sold or transferred, and that removed license plates may be transferred if eligible; otherwise, must be disposed of in a manner that renders the license plate unusable or that ensures the license plates will not be available for fraudulent use on a motor vehicle. The proposed amendments would delete current §217.53(c) to remove language that is redundant with statute. Proposed amendments would create new §217.53(d) to implement HB 718 and to mitigate the risk of license plate fraud by requiring that a retail purchaser who chooses to obtain replacement general issue license plates dispose of the replaced license plates in a manner that renders the license plates unusable. In accordance with the effective date of HB 718, the amendments to §217.53 are proposed for a future effective date of July 1, 2025.

Proposed amendments to §217.54(c)(2)(F) and §217.54(j) would modify the language to implement HB 3297 by replacing language regarding the state's portion of the inspection fee with language regarding any inspection fee that is required to be collected at the time of registration under Transportation Code, §548.509 for the first year of registration under Transportation Code, §502.0023 and on an annual basis thereafter for the remainder of the registration term.

A proposed amendment to §217.55(a) would use consistent terminology for clarity by adding the word "license" to modify "plate" in several places. Proposed amendments to §217.55(b)(5) would update the language and correct a cross-reference to clarify that an affidavit for alias exempt registration must be accompanied not by a regular title application, but instead by the specific, separate application required by the department to create the alias record of vehicle registration and title as outlined in §217.13, relating to Alias Certificate of Title. Proposed amendments to §217.55(e)(3) and §217.55(e)(6) would modify the language to implement HB 3297 by replacing language regarding the state's portion of the inspection fee with language regarding any inspection fee that is required to be collected at the time of registration under Transportation Code, §548.509 for the first year of registration under Transportation Code, §502.0025 and on an annual basis thereafter for the remainder of the registration term.

Proposed amendments to §217.56(b)(5) would update terminology by replacing "rejection letters" with "notices of determination" to better describe the department's processes. A proposed amendment to §217.56(b)(6) would delete the word "permit" in accordance with the implementation of HB 718. A proposed amendment to §217.56(c)(2)(B) would incorporate by reference the January 1, 2024, version of the International Registration Plan (IRP). Texas is bound by IRP, which is a vehicle registration reciprocity agreement between the 48 contiguous states, the District of Columbia, and the Canadian provinces. Section 217.56 must incorporate the latest edition of IRP because it contains language regarding the nature and requirements of vehicle registration under IRP. Texas is a member of IRP, as authorized by Transportation Code, §502.091 and 49 U.S.C. §31704, and must comply with the current edition of IRP. The jurisdictions that are members of IRP amended the January 1, 2022, version of IRP to create the January 1, 2024, version of the IRP.

A proposed amendment to §217.56(c)(2)(B) would also provide the online address where one can obtain a copy of the January 1, 2024, version of the IRP, as well as the January 1, 2016, version of the IRP Audit Procedures Manual and prior versions of both of these IRP documents. Because the department adopted documents by reference into an administrative rule, 1 TAC §91.40(e) requires the department to maintain and distribute a copy of the documents to interested parties. In addition, proposed amendments to §217.56(c)(2)(B) would move the rule text regarding a request to the department for a copy of the documents and would delete rule text regarding the review of the IRP documents in the department's Motor Carrier Division, which would allow the department to comply with 1 TAC §91.40(e) in the most efficient manner.

A proposed amendment to §217.56(c)(2)(M)(v) would replace "TxIRP" with "TxFLEET" because the department plans to rebrand the TxIRP system as the TxFLEET system in late August of this year. The department will refer to the system as the TxFLEET system throughout this preamble, except when summarizing a proposed amendment that would replace "TxIRP" with "TxFLEET."

Subchapter C. Registration and Title Systems

Proposed amendments to §217.71(a)(3) would modernize language and improve readability by deleting unnecessary or archaic language.

Proposed amendments to §217.74 would implement Transportation Code, §520.0055, created by HB 718, which requires all motor vehicle dealers to use the webDEALER system to submit title and registration applications for purchasers after July 1, 2025. A proposed amendment to the title of §217.74 would revise the section title to "webDEALER Access, Use, and Training" to accurately reflect the scope of the section. Proposed amendments to §217.74(c) would implement HB 718 by making it required, rather than discretionary, for all motor vehicle dealers who hold a GDN to get access to webDEALER, and by requiring that all active holders must obtain access to webDEALER prior to July 1, 2025. To ensure that all dealers are able to meet the deadline of July 1, 2025, proposed amendments to §217.74(c) would allow the department to provide dealers access to webDEALER in the county where the dealer is located without waiting for a county tax-accessor to process the dealer's application and provide access. Proposed amendments to §217.74(e) would add an "entity" to the webDEALER users that may have their authorization to use webDEALER revoked, rescinded, or cancelled to allow the department to cancel the access of tax accessor-collectors and their deputies or employees who abuse their access to webDEALER to perpetuate fraud or other wrongdoing. Proposed new §217.74(g) would require that all existing webDEALER users who process title and registration transactions through webDEALER complete training by April 30, 2025, and that all new webDEALER users created on or after April 30, 2025, must complete webDEALER training before being given webDEALER permissions. New proposed §217.74(g)(1) provides that the required webDEALER training will include, at a minimum, training regarding transactions performed in webDEALER and proper use of the system. The proposed amendments to new §217.74(g)(2) provide for an exemption from webDEALER training for holders who have had access to webDEALER for more than six months and who have submitted more than 100 transactions within the system as of October 1, 2024. The proposed amendments to new §217.74(g)(3) provide that the failure of holders and users to complete the required webDEALER training shall result in denial of access to webDEALER. These proposed amendments to §217.74 would implement HB 718 by ensuring that webDEALER users are appropriately trained and given access to the webDEALER system before the July 1, 2025, effective date for mandatory webDEALER use by all dealers.

Proposed amendments would delete §217.75(c)(5), which references training required by August 31, 2020, because it is outdated. The remaining subsections in §217.75 would be renumbered accordingly. Proposed amendments to renumbered §217.75(c)(5) would remove "after August 31, 2020" because it is outdated and unnecessary.

Subchapter D. Nonrepairable and Salvage Motor Vehicles.

Proposed amendments throughout the entire Subchapter D recommend the elimination of the hyphen for the term "non-repairable" to align the structure of that same term as used in Transportation Code, Chapter 501 for consistency. Additional proposed amendments throughout the subchapter would add the phrase "nonrepairable or salvage record of title" to each mention of nonrepairable or salvage vehicle title to account for the department's statutory authority under Transportation Code, Chapter 501 to issue electronic titles for nonrepairable and salvage motor vehicles and the department's current practice of issuing electronic versions of nonrepairable and salvage vehicle titles in lieu of paper titles at the request of applicants.

Proposed amendments to §217.81 would clarify wording by replacing "certificates of" with "titles" and adding "motor" to de-

scribe nonrepairable, salvage and rebuilt salvage motor vehicles. The proposed changes would provide consistency in the terms used throughout §217.81 to describe the purpose and scope of the subchapter.

Proposed amendments to §217.82 would define terms with the definitions of those same terms provided in Transportation Code, §501.002 and §501.091 for purposes of consistency: "casual sale," as defined in Transportation Code, §501.091(2); "certificate of title" as defined by Transportation Code, §501.002(1-a); "damage" as defined by Transportation Code, §501.091(3); "insurance company" as defined by Transportation Code, §501.091(5); "metal recycler" as defined by Transportation Code §501.091(7); "nonrepairable vehicle title" as defined by §501.091(10) in §217.82(14); "out-of-state buyer" as defined by Transportation Code, §501.091(11); "salvage vehicle dealer" as defined by Transportation Code, §501.091(17); and "salvage vehicle title" as defined by Transportation Code, §501.091(16). Proposed amendments to §217.82 would create a new §217.82(15) and §217.82(23) to add the defined terms "nonrepairable record of title" and "salvage record of title", respectively. These terms are used throughout the subchapter and the proposed definitions align with their use and meaning in Transportation Code, Chapter 501. Current §217.82(15) through §217.82(21) would be renumbered accordingly based on the addition of proposed new §217.82(15). A proposed amendment to §217.82(18) would delete "certificate of" and "regular certificate of" from the defined term "Rebuilt salvage certificate of title" to account for the department's current practice of issuing electronic or paper titles and is consistent with the standalone term "title" that is defined in Transportation Code, Chapter 501 to encompass both electronic and paper versions of a motor vehicle title. A proposed amendment to §217.82(19) would move "is" under §217.82(19)(A) to §217.82(19)(A)(i) and delete "damaged and" from §217.82(19)(A)(ii) to conform the definition of "salvage motor vehicle" to the definition of the same term provided in Transportation Code, §501.091(15) as the statutory definition does not specify that a salvage motor vehicle coming into the state on an out of state title to evidence damage.

The proposed amendment to §217.83(a)(2) would make a minor change by substituting "any" for "alternate" to account for all methods developed and commonly used by insurance companies to assess the condition of a motor vehicle to determine if the motor vehicle should be classified as a nonrepairable motor vehicle. The proposed amendment to §217.83(b)(1) would delete "certificate of" as the term "certificate of title" is limited to paper titles, but the department issues both paper and electronic versions of titles that are more accurately captured with the standalone term of "title". The proposed repeal of §217.83(c)(1) would eliminate text specifying a Texas title requirement for a motor vehicle retained by an owner that becomes classified as a nonrepairable or salvage motor vehicle as this requirement conflicts with Transportation Code, §501.1002 where no such requirement is specified for an owner-retained motor vehicle and eliminates an introductory language that is inconsistent with the subsection. The proposed amendment to §217.83(c)(2) would clarify the method required for insurance companies to submit owner-retained motor vehicle notice forms to the department by specifying that it be submitted to the department through the department's electronic system known as webDEALER. The department's infrastructure and operations have been modernized and this proposed amendment provides guidance to insurance companies on the proper filing method for such forms. The proposed repeal of §217.83(c)(5) would eliminate text that is duplicative of the text in §217.83(c)(3) and §217.83(c)(4) that prohibits the transfer of owner-retained motor vehicles that become classified as nonrepairable or salvage motor vehicles without owners first securing the respective titles for the motor vehicles. Proposed amendments to §§217.83(c)(2), 217.83(c)(3), 217.83(c)(4), and 217.83(c)(6) would be renumbered based on the proposed repeal of §§217.83(c)(1) and 217.83(c)(5).

The proposed amendment to §217.84(b)(5) would expand the description of damage to a motor vehicle in an application for a nonrepairable or salvage vehicle title by requiring the applicant to identify the major component parts that need to be repaired or replaced on the vehicle. The proposed amendment would deter fraudulent activity by providing the department the means to compare the information provided in the proposed updated form to an application submitted to the department requesting a rebuilt salvage certificate of title for the same vehicle. The proposed amendment to §217.84(b)(8) would delete "certificate of" as part of the description of the application form to align with the defined terms for nonrepairable and salvage title specified in Transportation Code, §501.091 and §217.82 of this subchapter that do not include the term "certificate of". The proposed amendments to §217.84(d)(1)(A) and (B) would delete "certificate of" from "Texas Certificate of Title" to rephase the term as "Texas Title". The deletion of "certificate of" would align with the department's current practice of issuing both paper and electronic versions of titles that is more accurately captured with the standalone term "title," which is defined in Transportation Code, Chapter 501 to encompass electronic and paper titles. The proposed amendments to §217.84(d)(1)(E) and (F) would add the phrase "or record of title" to account for the electronic versions of a title for a nonrepairable or salvage motor vehicle. The proposed amendment to §217.84(d)(3) would delete the words "vehicle title" from "salvage vehicle title" to create a new phrase of "salvage or nonrepairable vehicle title," which is used throughout the subchapter for ease of reading. The proposed amendment to §217.84(d)(4) would delete the text and replace it with a reference to Transportation Code, §501.0935, as the deleted text is duplicative of the text in statute and is therefore unnecessary. The proposed amendment to §217.84(f)(3)(B) would delete "certificate of" from the term "regular certificate of title" to be consistent with term "regular title," as specified in Transportation Code, §501.9112(b)(A).

The proposed amendment to §217.85(b) would delete "certificate of" as the term "certificate of title" is limited to paper titles, but the department issues both paper and electronic versions of titles that is more accurately captured with the standalone term of "title".

The proposed amendments to §217.86 would create a new §217.86(d) that would require a receipt from the department evidencing the surrender of ownership documents for a vehicle transferred to a metal recycler as specified in §217.86(c) and a department-prescribed form detailing the transfer. The proposed amendment would ensure vehicles delivered to metal recyclers follow the requirements set out in §217.86(a) - (c) as a prerequisite to their dismantling, scrapping or destruction, as well as to ensure proper documentation of the transfer and surrender of the receipt for purposes of reporting such information to the department by the metal recycler. The proposed amendments to §§217.86(d), 217.86(e) and 217.86(f) would re-letter the provisions to §§217.86(e), 217.86(f) and 217.86(g) based on the addition of proposed new §217.86(d). Also, a proposed amendment to current §217.86(f) would clarify that

the 60-day period for reporting to the department the delivery of a vehicle for dismantling, scrapping or destruction begins upon the delivery of the vehicle to the metal recycler to be consistent with the deadline set out in Transportation Code, §501.107.

The proposed repeal of §217.87 would eliminate text that is duplicative to Transportation Code, §501.09111 and is therefore unnecessary.

The proposed amendment to §217.88(a) would add the phrase "Sale, transfer or release with" to the title of the subsection to clarify the scope of it. The proposed amendments to §217.88(b) would add the phase "Sale, transfer or release without" to the title of the subsection to clarify the scope of it and would delete the remaining text for the subsection and replace it with a reference to Transportation Code, §501.095(a) as the deleted text is duplicative to the text in statute and is therefore unnecessary. The proposed amendment to §217.88(d) would incorporate a reference to Transportation Code, §501.091(2)(A-C) to exempt those persons not subject to the numerical limit for casual sales. This proposed amendment would acknowledge these persons or entities are not subject to the limitations of the rule provided the sales are consistent with the requirements specified in the statute. The proposed amendment to §217.88(e)(1)(D) would delete the existing description for a photo identification and add a reference to the list of current photo identifications provided in §217.7(b). The proposed amendment provides consistency throughout Chapter 217 as to what forms of current photo identification are acceptable to the department for purposes of the titling and/or registration of motor vehicles. The proposed amendment to §217.88(g)(1) would add a three-year retention requirement for export-only sales records to align with the records retention requirement specified in Transportation Code, §501.099(g). The proposed amendment to §217.88(g)(2)(C) would delete the existing description for a photo identification and add a reference to the list of photo identifications provided in §217.88(f)(1)(B). The proposed amendment would provide consistency as to what photo identifications are acceptable to the department for purposes of export-only sales of motor vehicles. The proposed amendments to §217.88(g)(2)(E) would delete certain data collection items from the export-only sale list and renumber the list accordingly, to align with the requirements provided in Transportation Code, §501.099(g)(2).

Proposed amendments throughout §217.89 would delete the words "certificate of" from the phrase "rebuilt salvage certificate of title" to read "rebuilt salvage title". These proposed amendments would account for the department's current practice of issuing electronic or paper titles and is consistent with the standalone term "title" that is defined in Transportation Code, Chapter 501 that encompasses electronic and paper versions of a motor vehicle title. The proposed amendments to §§217.89(a), 217.89(d), 217.89(f), and 217.89(g) would delete "certificate of" from the phrase "certificate of title" as the term "certificate of title" is limited to paper titles, while the department issues both paper and electronic versions of titles, which are more accurately captured with the standalone term of "title". The proposed repeal of §217.89(d)(3), which requires the submission of a motor vehicle safety inspection, is necessary to comply with amendments to Transportation Code, Chapter 548 as amended by HB 3297, which eliminated the mandatory motor vehicle safety inspections in the state. Proposed amendments to §217.89(d)(4) through §217.89(d)(7) would be renumbered accordingly based on the repeal of §217.89(d)(3). An additional proposed amendment to current §217.89(d)(5) would qualify the requirement for submitting proof of financial responsibility in those instances where the vehicle would be registered at the time of application. The proposed amendment would clarify that such proof is not required where the application seeks only to retitle the vehicle without registration. An additional proposed amendment to current §217.89(d)(6) would delete the requirement for attaining a motor vehicle inspection report for vehicles last titled or registered in another state or country. The proposed amendment would also clarify the requirement for motor vehicles last titled or registered in another country to secure a VIN inspection and require those vehicles last titled or registered in another state to submit a form as referenced by §217.4(d)(4) that would self-certify the VIN. The proposed amendments to §217.89(d)(5) are necessary to comply with HB 3297, which eliminated the mandatory motor vehicle safety inspections in the state. The amendments also ensure that motor vehicles being brought into the state from another state or country are in alignment with the statutory requirements set out for VIN inspections under Transportation Code, §501.030 and §501.032. The proposed amendment to §217.89(e)(1) would add the phrase "or record title" to account for the electronic version of a title for a salvage motor vehicle. The proposed amendment to §217.89(e)(2) would substitute "does" for "may" as it pertains to what is considered evidence ownership for a rebuilt salvage motor vehicle. This proposed amendment would conform to the requirements set out in Transportation Code, Chapters 501 and 683 that prohibit the items listed in this subsection as qualifying as evidence of ownership for a rebuilt salvage motor vehicle. The proposed amendment to §217.89(g) would delete "on its face" as being unnecessary language. In accordance with the effective date of HB 3297, the amendments to §217.89 are proposed for a future effective date of January 1, 2025.

Subchapter E. Title Liens and Claims

A proposed amendment to §217.106 would add language providing a citation to Transportation Code, §501.115, which governs the time limits for a lienholder to provide a discharge of lien after receiving final payment. The proposed amendment to §217.106 would add clarity, ease of reference, and improved guidance to the public.

Subchapter F. Motor Vehicle Records

Proposed amendments to §217.122(b)(2) would add a citation to Transportation Code, §730.003(5) to define "person" for clarity and consistency between the rules and statutes.

A proposed amendment to §217.123(b)(5) would delete a concealed handgun license as a method of current identification for a requestor of motor vehicle records as a concealed handgun license is no longer required by law. Proposed amendments to §217.123(c)(3) would align this section with statute by requiring a law enforcement requestor seeking personal information from agency records to identify its intended use or the agency's incident or case number for which the personal information is needed. Proposed amendments would create new §217.123(e)(1)(D) and (E) to require a requestor of the department's motor vehicle records to provide in its application for a service agreement copies of agreements used by the requestor to release motor vehicle record information to third parties, and any additional material provided to third party requestors detailing the process in which they obtain motor vehicle record information and describing their limitations as how this information may be used, to ensure that requestors are in compliance with the limitations on the use of personal information under Transportation Code, Chapter 730. The

remaining subsections of §217.123(e)(1) are proposed to be relettered accordingly. Proposed new §217.123(e)(2) clarifies that the department will not enter into a service agreement to release motor vehicle record information if it determines any of the information provided in an application is incomplete, inaccurate, or does not meet statutory requirement, to protect the confidentiality of motor vehicle records from misuse or inappropriate disclosure. Proposed new §217.123(f)(1)(D) and (E) would require requestors of bulk records to provide in an application for a bulk contract copies of agreements used by the requestor to release motor vehicle record information to third parties, and any additional material provided to third party requestors detailing the process through which they obtain motor vehicle record information and describing their limitations as to how this information may be used, to ensure that requestors are in compliance with the limitations on the use of personal information under Transportation Code, Chapter 730. The remaining subsections of §217.123(f)(1) are proposed to be numbered accordingly. Proposed new §217.123(f)(2) would provide that the department will not enter into a bulk contract to release motor vehicle record information if the department determines any of the information provided by a requestor is incomplete, inaccurate, or does not meet statutory requirements, to protect the confidentiality of motor vehicle records from misuse or inappropriate disclosure. The remaining subsections of §217.123(f) are proposed to be renumbered accordingly.

Proposed amendments to §217.124(e) would add "federal governmental entities" as being exempt from the payment of fees except for the fees listed in §217.124(d)(1), (6), or (8), to expedite and streamline the delivery of documents to federal government entities. Proposed amendments to §217.124(f) would add an "a" before "reciprocity," delete the "s" in agreements, replace "other" with "another" before "governmental," and replace "entities" with "entity" to improve readability and to use consistent terminology.

A proposed amendment to §217.125(b)(2) would add the word "proof" where it was inadvertently left out of the rule to make the sentence comprehensible. Another proposed amendment to §217.125(b)(2) would clarify that a requestor who is not yet involved in litigation must be in anticipation of litigation that would necessitate the release of the documents requested, to limit the unnecessary release of confidential motor vehicle records and the resulting potential for misuse of personal information. Proposed amendments to §217.125(b)(3), to further limit the inappropriate release of confidential motor vehicle records, would replace the requirement that a requestor prove they are "in a researching occupation" with a more specific requirement that the requestor is "employed by an entity in the business of conducting research related to the requested information," and would give the department discretion to determine whether the employment is valid and the business research sufficiently related to the requested information.

A proposed amendment to §217.129(a) would add a citation to Transportation Code §730.005 and §730.006 for clarity and ease of reference. A proposed amendment to §217.129(c) would add "has previously been terminated" to align with the title of §217.130, relating to Approval for Persons Whose Access to Motor Vehicle Records has Previously Been Terminated.

A proposed amendment to §217.131 would delete current §217.131(a) and combine the language "previously received personal information from the department" into current §217.131(b) to streamline the rule and improve readability. The remaining subsections of §217.131 are proposed to be relettered accordingly.

Subchapter G. Inspections.

The proposed amendment to §217.143(c) would add a reference to Transportation Code, §731.102 to the inspection requirements for an assembled vehicle. This proposed amendment would clarify the minimum requirements set forth in statute that must be met to evaluate the function and structural integrity of an assembled vehicle. The proposed amendment to §217.143(g) would substitute "any applicable" for "an" as it pertains to an inspection or reinspection of an assembled vehicle under Transportation Code, Chapter 548. The proposed amendment is necessary to comply with amendments to Transportation Code, Chapter 548 by HB 3297, which eliminated the mandatory motor vehicle safety inspections in the state.

Proposed amendments to §217.144 would create new §217.144(b) and move the existing text in §217.144 under §217.144(a). These amendments would restructure §217.144 for ease of reading to separate text addressing the training for inspectors from text addressing the outcome of identification number inspections. Proposed new §217.144(b) would prohibit the department from titling or registering a motor vehicle where the inspector is unable to ascertain the motor vehicle's make or year of manufacture and would further prohibit a motor vehicle being classified as an assembled, homemade, or shop vehicle where the inspection is unable to determine the vehicle's make or year of manufacture. The proposed amendment clarifies the department's existing interpretation of Transportation Code, Chapter 501 and the department's existing practices and procedures for identification number inspections performed on motor vehicles that are subject to such inspections under Transportation Code, §501.032. The proposed amendments align those interpretations and practices to provide guidance to the public on the requirements and consequences associated with a motor vehicle's identity.

Subchapter H. Deputies.

A proposed amendment to §217.161 would remove unnecessary transition language regarding a deputy appointed under Transportation Code, §520.0071, on or before December 31, 2016. House Bill (HB) 2202 and HB 2741, 83rd Legislature, Regular Session, 2013, added Transportation Code, §520.0071 and repealed Transportation Code, §§520.008, 520.009, 520.0091 and 520.0092, effective September 1, 2013. Both HB 2202 and HB 2741 stated that a deputy appointed under Transportation Code, §520.0091 on or before August 31, 2013, may continue to perform the services authorized under Transportation Code, §§520.008, 520.009, 520.0091 and 520.0092 until the effective date of rules adopted by the board regarding the types of deputies authorized to perform titling and registration duties under Transportation Code, §520.0071 as added by HB 2202 and HB 2741. The board adopted rules under Transportation Code, §520.0071, effective March 12, 2015; however, §217.161 authorized a deputy appointed under Transportation Code, §520.0071 on or before December 31, 2016, additional time to comply with the rules. All deputies were required to comply with the new and amended rules regarding deputies, beginning on January 1, 2017. A proposed amendment to §217.161 would also remove the unnecessary reference to January 1, 2017.

A proposed amendment to §217.166(h) would allow a county tax assessor-collector to set a maximum number of webDEALER transactions for a dealer deputy based on the deputy's bond

amount, to limit the risk of fraud or theft by a dealer deputy in excess of the amount of the bond.

A proposed amendment to §217.168(b)(1) would add the word "county" before the term "tax assessor-collector" to make the terminology consistent throughout Chapter 217. A proposed amendment to §217.168(b)(1) would also create a new subparagraph (A) for the second sentence in §217.168(b)(1) due to the proposed addition of new §217.168(b)(1)(B), which would clarify that title transaction fees collected by full service deputies authorized by a county tax assessor-collector can be assessed on webDEALER title transactions where the full service deputies have been approved by a county tax assessor-collector to approve title transactions through webDEALER. The proposed amendment is necessary to address and account for the influx of title transactions due to the new requirement of Transportation Code, §520.0055, as amended by HB 718, that dealers holding a GDN use webDEALER for filing title transactions.

A proposed amendment to §217.168(d) would replace terminology related to one-trip permits and 30 day permits under Transportation Code, §502.095 with terminology describing one-trip license plates and 30-day license plates, to implement the license plate requirements of HB 718. In accordance with the effective date of HB 718, the amendments to §217.168 are proposed for a future effective date of July 1, 2025. A proposed amendment to §217.168(d) would also replace the word "temporary" with the term "special registration" for consistency with the terminology in §217.40(b) regarding the category of "special registration permits" under Transportation Code, §502.094, which are called 72-hour permits and 144-hour permits. In addition, proposed amendments to §217.168(d) would reduce the amount of the processing and handling fee that a full service deputy may retain for special registration permits and special registration license plates under Transportation Code, §502.094 and §502.095 from $4.75 to $4.25. These proposed amendments to §217.168(d) would provide that $0.50 of the processing and handling fee would be remitted to the department by citing to the formula established by §217.185(b), which the department is also proposing to amend in this proposal. This proposed amendment to §217.168(d) is necessary for the department to comply with Transportation Code, §502.356, which requires the board by rule to adopt a fee (automation fee) of not less than $0.50 and not more than $1.00 that shall be collected in addition to registration fees and deposited into a subaccount in the Texas Department of Motor Vehicles fund. Section 502.356 specifies how the department may use the automation fee to provide for or enhance the automation of and the necessary infrastructure for certain services and procedures. The board established the automation fee at $0.50 under §217.72(c). Transportation Code, §502.1911(b) requires the board by rule to include the automation fee that is established under Transportation Code, §502.356 in the processing and handling fee for registration transactions. Therefore, $0.50 of each processing and handling fee must be remitted to the department.

Subchapter I. Fees.

A proposed amendment to Subchapter I would update the title of the subchapter by adding the words "Processing and Handling" to read "Processing and Handling Fees," to more accurately describe the content and scope of the subchapter. A proposed amendment to §217.181 would replace the word "fee" with the word "fees" because Subchapter I prescribes the department's processing and handling fees authorized by Transportation Code, §502.1911. Section 217.183 includes two processing and handling fees, which are more fully described in the summary of proposed amendments to §217.183. Proposed amendments to §217.181 would also amend other words to ensure that there is subject-verb agreement between the word "fees" and the applicable verbs.

Proposed amendments to §217.182(1) would add the term "special registration license plate" and the words "special registration" to modify the word "permit" to clarify that each constitutes a "registration transaction," and would implement HB 718, which requires the department to issue license plates rather than paper permits, with consistent use of terminology across the chapter. In accordance with the effective date of HB 718, the amendments to §217.182 are proposed for a future effective date of July 1, 2025.

Proposed amendments to §217.183 would clarify that the department charges two different processing and handling fees under Transportation Code, §502.1911: 1) a flat fee of $4.75 for a registration transaction that is processed outside of the department's TxFLEET system; and 2) $4.75 plus the applicable service charge for each registration transaction processed through the TxFLEET system. Transportation Code, §502.1911(b)(2) requires the board by rule to set the applicable processing and handling fee in an amount that is sufficient to cover the expenses associated with collecting the registration fees. The applicable service charge for a registration transaction processed through the TxFLEET system is the fee that the Texas Department of Information Resources (DIR) sets under Government Code, §2054.2591, which states that a state agency may charge such fee for a transaction that uses the state electronic Internet portal project. The department uses the state electronic Internet portal project for the payment engine for the TxFLEET system as required by Government Code, §2054.113. The department must pass the DIR fee to the registration applicant to comply with Transportation Code, §502.1911(b)(2).

Although the department included the DIR fee in the processing and handling fee of $4.75 for a registration transaction that is processed outside of the TxFLEET system, the department did not include the DIR fee in the $4.75 charge that is a portion of the processing and handling fee for a registration transaction that is processed through the TxFLEET system. For a registration transaction that is processed through the TxFLEET system, the processing and handling fee consists of the $4.75 charge plus the DIR fee, which is generally represented by the following mathematical formula: 2.25 percent plus $0.25 for each credit card or debit card transaction processed. However, $0.25 is added to the amount of the underlying fee prior to multiplying that amount by 2.25 percent, and an additional $0.25 is added to that calculation to compute the DIR fee. For example, if the underlying fee is $100.00 (including the $4.75 charge), the DIR fee would be $2.51, which would result in a total cost of $102.51 for the registration transaction.

The registration fees for the vehicle registration transactions that are processed through the TxFLEET system are typically more expensive than vehicle registration transactions that are processed outside of the TxFLEET system. For example, Transportation Code, §502.0023 authorizes the extended registration of commercial fleet vehicles for up to an eight-year term for which the applicant must pay all registration fees, as well as all other applicable fees, for the selected term at the time of registration. In addition, a commercial fleet could include vehicles with a gross weight that exceeds 6,000 pounds. Transportation Code,

§502.252 states that the fee for a registration year for registration of a vehicle with a gross weight of 6,000 pounds or less is $50.75, unless otherwise provided by Transportation Code, Chapter 502. Transportation Code, §502.253 provides a fee schedule for a registration year for registration of a vehicle with a gross weight of more than 6,000 pounds, unless otherwise provided by Transportation Code, Chapter 502. The fee schedule in Transportation Code, §502.253 provides a fee for seven different ranges of weight classifications based on pounds, starting with a fee of $54.00 for a vehicle that falls within the weight classification of 6,001 pounds through 10,000 pounds and ending with a fee of $840.00 for a vehicle that falls within the weight classification of 70,001 through 80,000 pounds. If an applicant wanted to register 12 fleet vehicles for a five-year term under Transportation Code, §502.0023, the DIR fee would greatly exceed $4.75.

Proposed amendments to §217.183 would also separate the language by adding subsections (a) through (c) to provide clarity. Proposed new §217.183(a) would contain the current language regarding the processing and handling fee that is $4.75 for a registration transaction that is not processed through the TxFLEET system. Proposed new §217.183(a) would also clarify that the language is subject to the language in new subsections (b) and (c). Proposed new §217.183(a) would also modify the rule text to state that certain registration transactions are exempted by §217.184. Proposed new §217.183(b) would replace the existing language with clarified language to describe the processing and handling fee that applies to a registration transaction that is processed through the TxFLEET system. Proposed new §217.183(b) would also clarify that it is subject to the language in new subsection (c) and the exemptions under §217.184. Proposed new §217.183(c) would separate existing rule text that explains that the department shall only collect the processing and handling fee on the registration transaction if the transaction includes both registration and issuance of a license plate or specialty plate.

Proposed amendments to §217.184 would replace the word "fee" with the word "fees" because Subchapter I prescribes the department's processing and handling fees authorized by Transportation Code, §502.1911. Section 217.183 includes two processing and handling fees, which are more fully described in the summary of proposed amendments to §217.183.

A proposed amendment to the title of §217.185 would change the word "Fee" to "Fees" and a proposed amendment to §217.185(a) would change the word "amount" to "amounts" because the department has two different processing and handling fees under §217.183. Proposed amendments to §217.185(a)(1) would also combine language in §217.185(a)(1) and §217.185(a)(2) for consistency and ease of understanding without changing the meaning. A proposed amendment to current §217.185(a)(2) would delete the paragraph to remove redundancy, and renumber the remaining paragraphs accordingly. A proposed amendment to renumbered §217.185(a)(2) would replace "TxIRP" with "TxFLEET" because the department plans to rebrand the TxIRP system as the TxFLEET system in late August of this year.

A proposed amendment to renumbered §217.185(a)(3) would replace a reference to the department's online registration portal with a reference to Texas by Texas (TxT) or the department's Internet Vehicle Title and Registration Service (IVTRS) because the department currently provides the $1 discount if the registration transaction was processed through either one of these systems.

A proposed amendment to §217.185(b) would delete the reference to Transportation Code, §502.092 because HB 718 repeals §502.092, effective July 1, 2025. A proposed amendment to §217.185(b) would also clarify the rule by specifying the allocation of the $4.75 processing and handling fee collected by entities that process applications for special registrations under Transportation Code, §§502.093 - 502.095. Proposed amendments to §217.185(b) would further provide that the $0.50 remainder of the processing and handling fee would be remitted to the department. This proposed amendment is necessary for the department to comply with Transportation Code, §502.356, which requires the board by rule to adopt an automation fee of not less than $0.50 and not more than $1.00 that shall be collected in addition to registration fees and deposited into a subaccount in the Texas Department of Motor Vehicles fund. Section 502.356 specifies how the department may use the automation fee to provide for or enhance the automation of and the necessary infrastructure for certain services and procedures. The board established the automation fee at $0.50 under §217.72(c). Transportation Code, §502.1911(b) requires the board by rule to include the automation fee that is established under Transportation Code, §502.356 in the processing and handling fee for registration transactions. Therefore, $0.50 of each processing and handling fee must be remitted to the department. Other amendments to §217.185(b) would replace the word "temporary" with the words "special registration" to describe the referenced permit, and would add the words "special registration license plate" to implement HB 718 and to ensure consistent use of terminology across the chapter. In accordance with the effective date of HB 718, the amendments to §217.185 are proposed for a future effective date of July 1, 2025.

Subchapter J. Performance Quality Recognition Program.

The proposed amendment to §217.205(e) would replace the current deadline of 90 calendar days for the department's decision to award or deny a service recognition in response to an application from a county tax assessor-collector's office by specifying a reoccurring annual deadline of December 31. The proposed amendment would streamline the department's process and allow the department more flexibility to address all submitted applications in a timely and efficient manner without sacrificing the quality of the review based on the current deadline structure.

Subchapter L. Assembled Vehicles

A proposed amendment to §217.404 (a) deletes the phrase "prior to applying for title" because this phrase is unnecessary and to clarify that an application for title for an assembled vehicle is part of the process for an applicant applying for title. A proposed amendment to §217.404 (b) would add the phrase "under Transportation code, Chapter 731" to clarify that applications for assembled vehicles are required to comply with that chapter.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Glenna Bowman, Chief Financial Officer, has determined that for each year of the first five years the proposed amendments, new section and repeals will be in effect, there will be no significant fiscal impact to state or local governments as a result of the enforcement or administration of the proposal. The proposed amendments to §217.185(b), which require the entity that processes a vehicle registration transaction under Transportation Code, §502.094 or §502.095 to remit $0.50 of each processing and handling fee per transaction to the department, are necessary to comply with Transportation Code, §502.356. The amendments would cause county tax assessor-collectors state-wide to remit to the department a collective state-wide

total of approximately $201,066.50 per year for approximately 402,133 transactions per year for the first five years the amendments will be in effect. Although county tax assessor-collectors currently receive 100% of each processing and handling fee for each vehicle registration transaction they process under Transportation Code, §502.094 or §502.095, they would retain approximately 89% of each processing and handling fee for such transactions under the proposed amendments to §217.185(b). The proposed amendments to §217.185(b) regarding annual permits under Transportation Code, §502.093 would not impact county tax assessor-collectors because only the department issues these annual permits.

PUBLIC BENEFIT AND COST NOTE. Ms. Quintero has also determined that for each year of the first five years the proposed amended sections, new rule and repeals are in effect, the anticipated public benefit as a result of enforcing or administering the amendments and repeals will be the simplification, clarification, and streamlining of agency rules, a reduction in the opportunity for license plate fraud, and a reduction in the opportunity for misuse of the confidential personal information captured in motor vehicle records.

Anticipated Cost to Comply with the Proposal. Ms. Quintero anticipates that for the first five years the rules are in effect, there will be costs to certain persons to comply with a few of the proposed amendments, but no costs to comply with the new rule or the repeals.

Anticipated Cost to Comply with the Proposal. Ms. Quintero anticipates that for the first five years the rules are in effect, there will be costs to certain persons to comply with a few of the proposed amendments, but no costs to comply with the new rule or the repeals.

Proposed amendments to §§217.5(a)(1)(A)(i) and (vi), which would require that the information on the MCO include a manufacturer's name and, if the vehicle is a motor bus, the passenger seating capacity, may create costs for manufacturers that rely on automated systems to fill out their manufacturer's certificate of origin forms. These manufacturers initially may have to undertake a minor amount of reprogramming for their automated forms, but those one-time costs are not expected to be significant. These costs will be offset by clarity and consistency in MCO information, which will result in greater efficiency and certainty in titling decisions by the department.

Proposed amendments to §217.8(b) would require a dealer who holds a GDN to submit a vehicle transfer notification to the department upon the sale or transfer of a motor vehicle to the dealer. The single-page form can be submitted by mail, in-person, or electronically through the department's website, and is expected to take approximately 10 minutes to complete. While GDN holders will incur the small cost of staff time in completing the form, required submission of the vehicle transfer notification will ensure more accurate recordkeeping for the department, to allow it to provide more accurate vehicle ownership information to law enforcement and toll authorities.

Proposed amendments to §217.74(g) would require a motor vehicle dealer who has held a GDN for less than six months or submitted fewer than 100 transactions in webDEALER to take department-provided training on webDEALER by April 30, 2025. The training is free, offered online, and takes one hour to complete. The proposed rule would cause GDN holders who are new or inexperienced with webDEALER to incur the one-time cost of an hour of time. This cost is offset by improved efficiency and accuracy in inputting transactions into webDEALER for dealers who have completed the training, and with improved system-wide accuracy and security in webDEALER from eliminating access, data accuracy and transaction efficiency issues caused by inexperienced and untrained webDEALER users.

Proposed amendments to §217.86(d) would require a person to fill out a form from the department when a person transfers a motor vehicle to a metal recycler to be dismantled, scrapped or destroyed. This form is expected to take approximately 10 minutes to complete, but would allow for more efficient tracking of vehicles that are dismantled, salvaged, or destroyed to reduce the opportunity for title fraud.

Proposed amendments to §217.185(b), which would require the entity that processes a vehicle registration transaction under Transportation Code, §502.094 or §502.095 to remit $0.50 of each processing and handling fee per transaction to the department as required by Transportation Code, §502.356, would cause county tax assessor-collectors state-wide to remit to the department a collective state-wide total of approximately $201,066.50 per year for approximately 402,133 transactions per year, and would cause full service deputies to remit to the department approximately $58,089.50 per year for approximately 116,179 registration transactions per year. These proposed costs required to comply with Transportation Code, §502.356.

Transportation Code, §502.1911(b) requires the board by rule to set the processing and handling fee for vehicle registration transactions in an amount that includes the fee established under Transportation Code, §502.356(a) and is sufficient to cover the expenses associated with collecting vehicle registration fees. Transportation Code, §502.356 requires the board by rule to adopt a fee of not less than $0.50 and not more than $1.00, which fee shall be collected in addition to other vehicle registration fees for a license plate, set of license plates or other registration insignia. The department set the fee at $0.50 (the automation fee). Transportation Code, §502.356 also requires the department to deposit the collected automation fee into a subaccount in the Texas Department of Motor Vehicles fund, and only authorizes the department to use the collected automation fee for certain purposes, including the ongoing modernization and maintenance of the department's Registration and Title System (RTS). Annette Quintero, Director of the Vehicle Titles and Registration Division, has determined that there will be no significant impact on local employment or the local economy as a result of the proposal.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. While the proposed amendments to §217.185(b) would require county tax assessor-collectors to remit $0.50 per transaction to the department for registration transactions under Transportation Code, §502.094 and §502.095 as stated above in the section titled Fiscal Note and Local Employment Impact Statement, the proposed amendments will not impact rural communities because a county government does not fall within the definition of "rural community" under Government Code, §2006.001(1-a), which defines the term as a municipality with a population of less than 25,000. Also, counties are different jurisdictions than municipalities, so the income or budget of a county does not necessarily impact the income or budget of a municipality within the county.

The department has determined that the proposed amendments to §217.168(d) and §217.185(b) would have an adverse economic effect on micro-businesses and small businesses under

Government Code, Chapter 2006. The impacted micro-businesses and small businesses are full service deputies that are deputized by county tax assessor-collectors to perform vehicle registration services that include the transactions subject to §217.168(d) and §217.185(b), which are registrations under Transportation Code, §502.094 and §502.095. The proposed amendments to §217.185(b) regarding annual permits under Transportation Code, §502.093 would not impact full service deputies because only the department issues these annual permits. There are 24 full service deputies located throughout the state. The department has determined that these full service deputies are for-profit businesses that are independently owned and operated and have fewer than 100 employees. The proposed amendments to §217.185(b), which would require full service deputies to remit $0.50 per transaction to the department for registration transactions under Transportation Code, §502.094 and §502.095, would cause full service deputies collectively to remit to the department approximately $58,089.50 per year for approximately 116,179 registration transactions per year, or approximately 22% of the registration transactions that are estimated to be impacted by the proposed amendments to §217.185(b). Although full service deputies currently receive 100% of each processing and handling fee for each vehicle registration transaction they process under Transportation Code, §502.094 or §502.095, full service deputies would retain approximately 89% of each processing and handling fee for such transactions under the proposed amendments to §217.168(d) and §217.185(b).

It is possible that some or all of these full service deputies have 20 or fewer employees, so some or all of the full service deputies might also be a micro-business as defined by Government Code, §2006.001(1). However, the proposed amendments to §217.168(d) and §217.185(b) would not cause an adverse economic effect on micro-businesses that is distinct from any adverse economic effect on small businesses.

Some full service deputies will be impacted by the proposed amendments to §217.168(d) and §217.185(b) more than others depending on the number of registration transactions performed by the full service deputy under Transportation Code, §502.094 and §502.095. However, the department determined that the estimated amount of revenue that would be remitted to the department under the proposed amendments to §217.168(d) and §217.185(b) would cause an adverse economic impact to the full service deputies given the small number of full service deputies that perform these transactions. In drafting the proposed amendments to §217.168(d) and §217.185(b), the department attempted to minimize the adverse economic impact on full service deputies by maintaining the automation fee required by Transportation Code, §502.356 at $0.50, which is the minimum amount provided in the range of amounts set out in Transportation Code, §502.356.

Under Government Code, §2006.002, the department must perform a regulatory flexibility analysis. The department considered the alternatives of not adopting the amendments to §217.168(d) and §217.185(b), exempting small and micro-businesses from the amendments, requiring small and micro-businesses to only remit a portion of the $0.50 automation fee to the department, and increasing the processing and handling fee for registration transactions under Transportation Code, §502.094 and §502.095 to offset the return of the $0.50 automation fee to the department on these registration transactions. The department rejects all of these options. As explained above in the section titled Fiscal Note and Local Employment Impact Statement, $0.50 of each processing and handling fee collected shall be deposited into a subaccount in the Texas Department of Motor Vehicles fund and may only be used for an authorized purpose under Transportation Code, §502.356. The department must comply with Transportation Code, §502.356 and §502.1911(b)(1).

Further, the department determined that it would be inconsistent with the economic welfare of the state per Government Code, §2006.002(c-1) to increase the processing and handling fee by $0.50 to offset the fee reduction for full service deputies under the proposed amendments to §217.168(d) and §217.185(b) for registration transactions under Transportation Code, §502.094 and §502.095. The temporary vehicle registration options that are available under Transportation Code, §502.094 and §502.095 foster commerce and economic growth in Texas.

Transportation Code, §502.094 authorizes the issuance of a 72-hour or a 144-hour registration permit for a commercial motor vehicle, trailer, semitrailer, or motor bus that is owned by a resident of the United States, Canada, or the United Mexican States that is subject to registration in Texas and is not authorized to travel on a public highway in Texas because of the lack of registration in Texas or the lack of reciprocity with a state or province in which the vehicle is registered. The 72-hour and 144-hour registration permits are frequently purchased by or for motor carriers.

The one-trip license plate and the 30-day license plate that are authorized under Transportation Code, §502.095 provide temporary vehicle registration options that allow a person to operate certain vehicles in Texas that are subject to registration in Texas, but are not authorized to travel on a public highway in Texas because of the lack of vehicle registration in Texas or the lack of reciprocity with a state or country in which the vehicle is registered. Although the one-trip license plate and the 30-day license plate are not authorized for transporting passengers or property in many cases, these temporary license plates also foster commerce and economic growth in Texas because they provide vehicle registration options for certain operators to travel on public roadways in Texas.

TAKINGS IMPACT ASSESSMENT. The department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT. The department has determined that each year of the first five years the proposed amendments, new rule and repeals are in effect, no government program would be created or eliminated; no employee positions would be created or eliminated; there would be no change in the amount of fees paid to the agency; the number of individuals subject to the rule's applicability would not change; and the rule would have no significant impact on the state's economy. With the exception of the proposed amendments to §217.5(a)(1)(A) to add two new requirements for a manufacturer's certificate of origin, the proposed revisions do not expand or limit regulations; however, the proposed revisions repeal regulations - specifically, §217.34 and §217.87. Proposed new §217.31 regarding HVUT clarifies current law and moves the HVUT requirements into a standalone rule to ensure compliance with the HVUT requirements.

REQUEST FOR PUBLIC COMMENT. If you want to comment on the proposal, submit your written comments by 5:00 p.m. CDT on August 12, 2024. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

SUBCHAPTER A. MOTOR VEHICLE TITLES

43 TAC §§217.2 - 217.9, 217.11, 217.14 - 217.16

STATUTORY AUTHORITY. The department proposes amendments to Chapter 217 under Transportation Code, §501.0041, which gives the department authority to adopt rules to administer Transportation Code, Chapter 501, Certificate of Title Act; Transportation Code, §501.023, which authorizes the department to prescribe the process and procedures for applying for a motor vehicle title; Transportation Code, §501.0235, which authorizes the department to adopt rules requiring current personal identification from applicants requesting a motor vehicle title; Transportation Code, §501.0236, as amended by HB 718, which authorizes the department to adopt rules governing the issuance of a motor vehicle titles and permits to purchasers of a motor vehicle where a motor vehicle dealer goes out of business; Transportation Code, §501.025, which authorizes the department to specify the requirements for a manufacturer's certificate of origin for issuance of a motor vehicle title; Transportation Code, §501.029, which authorizes the department to adopt rules to identify documents that are acceptable as proof of ownership of a motor vehicle for registration purposes only; Transportation Code, §501.030, which authorizes the department to adopt rules governing identification number inspections for motor vehicles brought into the state; Transportation Code, §501.0315, which authorizes the department to adopt rules governing the designation of a beneficiary by a motor vehicle owner; §501.0321; Transportation Code §501.0322, which provides the department with authority to adopt rules to establish an alternative identification number inspection; Transportation Code, §501.051(d), which gives the department authority to place a hold on processing a title application for a motor vehicle if the department receives a request for a hold accompanied by evidence of a legal action regarding ownership of or a lien interest in the motor vehicle until a final, nonappealable judgment is entered in the action or the party requesting the hold requests that the hold be removed; Transportation Code, §501.147, as amended by HB 718, which authorizes the department to adopt rules governing vehicle the submission of transfer notifications to the department; and Transportation Code, §1002.001, which authorizes the department to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

CROSS REFERENCE TO STATUTE. The proposed amendments would implement Transportation Code §§501.023, 501.0235, 501.025, 501.029, 501.030, §501.0315, §501.0321, §501.0322, 501.051, 501.053, 501.147, and 1002.001.

§217.2. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Alias--The name of a vehicle owner reflected on a title, when the name on the title is different from the name of the legal owner of the vehicle.

(2) Alias title--A title document issued by the department for a vehicle that is used by an exempt law enforcement agency in covert criminal investigations.

~~[(3) All-terrain vehicle or ATV--A motor vehicle as defined by Transportation Code, §551A.001, and designed primarily for recreational use. The term does not include a "utility vehicle" as defined by Transportation Code, §551A.001, or a self-propelled, motor-driven vehicle designed or marketed by the manufacturer primarily for non-recreational uses.]~~

(3) [~~(4)~~] Bond release letter--Written notification from the United States Department of Transportation authorizing United States Customs to release the bond posted for a motor vehicle imported into the United States to ensure compliance with federal motor vehicle safety standards.

(4) Current photo identification--a government-issued photo identification that is currently valid or is within 12 months of the expiration date, or a state-issued personal identification certificate issued to a qualifying person if the identification states that it has no expiration.

(5) Date of sale--The date of the transfer of possession of a specific vehicle from a seller to a purchaser.

(6) Division director--The director of the department's Vehicle Titles and Registration Division.

(7) Executive administrator--The director of a federal agency, the director of a Texas state agency, the sheriff of a Texas county, or the chief of police of a Texas city who by law possesses the authority to conduct covert criminal investigations.

(8) Exempt agency--A governmental body exempt by law from paying title or registration fees for motor vehicles.

(9) Federal motor vehicle safety standards--Motor vehicle safety requirements promulgated by the United States Department of Transportation, National Highway Traffic Safety Administration, set forth in Title 49, Code of Federal Regulations.

~~[(10) House moving dolly--An apparatus consisting of metal beams and axles used to move houses. House moving dollies, by nature of their construction and use, actually form large semitrailers.]~~

~~[(11) Implements of husbandry--Farm implements, machinery, and tools used in tilling the soil, including self-propelled machinery specifically designed or especially adapted for applying plant food materials or agricultural chemicals. This term does not include an implement unless it is designed or adapted for the sole purpose of transporting farm materials or chemicals. This term does not include any passenger car or truck. This term does include a towed vehicle that transports to the field and spreads fertilizer or agricultural chemicals; or a motor vehicle designed and adapted to deliver feed to livestock.]~~

(10) [~~(12)~~] Manufacturer's certificate of origin--A form prescribed by the department showing the original transfer of a new motor vehicle from the manufacturer to the original purchaser, whether importer, distributor, dealer, or owner and when presented with an application for title showing on appropriate forms prescribed by the department, each subsequent transfer between distributor and dealer, dealer and dealer, and dealer and owner.

(11) [~~(13)~~] Moped--A motor vehicle as defined by Transportation Code, §541.201.

(12) [~~(14)~~] Motor vehicle importation form--A declaration form prescribed by the United States Department of Transportation and certified by United States Customs that relates to any motor vehicle being brought into the United States and the motor vehicle's compliance with federal motor vehicle safety standards.

(13) [~~(15)~~] Non-United States standard motor vehicle--A motor vehicle not manufactured in compliance with federal motor vehicle safety standards.

~~[(16) Obligor--An individual who is required to make payments under the terms of a support order for a child.]~~

~~[(17) Off-highway vehicle--A motor vehicle as defined by Transportation Code, §551A.001.]~~

(14) [~~(18)~~] Person--An individual, firm, corporation, company, partnership, or other entity.

~~[(19) Recreational off-highway vehicle or ROV--A motor vehicle as defined by Transportation Code, §551A.001, and designed primarily for recreational use. The term does not include a "utility vehicle" as defined by Transportation Code, §551A.001, or a self-propelled, motor-driven vehicle designed or marketed by the manufacturer primarily for non-recreational uses.]~~

(15) [~~(20)~~] Safety certification label--A label placed on a motor vehicle by a manufacturer certifying that the motor vehicle complies with all federal motor vehicle safety standards.

~~[(21) Sand rail--A motor vehicle as defined by Transportation Code, §551A.001.]~~

(16) [~~(22)~~] Statement of fact--A written declaration that supports an application for a title, that is executed by an involved party to a transaction involving a motor vehicle, and that clarifies an error made on a title or other negotiable evidence of ownership. An involved party is the seller, or an agent of the seller involved in the motor vehicle transaction. When a written declaration is necessary to correct an odometer disclosure error, the signatures of both the seller and buyer when the error occurred are required.

(17) [~~(23)~~] Title application--A form prescribed by the division director that reflects the information required by the department to create a motor vehicle title record.

~~[(24) Utility vehicle or UTV--A motor vehicle as defined by Transportation Code, §551A.001, and designed primarily for utility use. The term does not include a "golf cart" as defined by Transportation Code, §551.401, or a self-propelled, motor-driven vehicle designed or marketed by the manufacturer primarily for non-utility uses.]~~

(18) [~~(25)~~] Verifiable proof--Additional documentation required of a vehicle owner, lienholder, or agent executing an application for a certified copy of a title.

~~[(A) Individual applicant. If the applicant is an individual, verifiable proof consists of a copy of a current photo identification issued by this state or by the United States or foreign passport.]~~

~~[(B) Business applicant. If the applicant is a business, verifiable proof consists of an original or copy of a letter of signature authority on letterhead, a business card, or employee identification and a copy of current photo identification issued by this state or by the United States or foreign passport.]~~

~~[(C) Power of attorney. If the applicant is a person in whose favor a power of attorney has been executed by the owner or lienholder, verifiable proof consists of the documentation required under subparagraph (A) or (B) of this paragraph both for the owner or lienholder and for the person in whose favor the power of attorney is executed.]~~

§217.3. Motor Vehicle Titles.

Unless otherwise exempted by law or this chapter, the owner of any motor vehicle that is required to be titled, including any motor vehicle required to be registered in accordance with Transportation Code Chapter 502, shall apply for a Texas title in accordance with Transportation Code Chapter 501 or 731, or this subchapter.

(1) Motorcycles, autocycles, and mopeds.

[~~(A)~~] The title requirements for a motorcycle, autocycle, and moped are the same requirements prescribed for any motor vehicle.

~~[(B) A vehicle that meets the criteria for a moped under Transportation Code §541.201(8).]~~

(2) Farm vehicles.

~~[(A) The term "motor vehicle" does not apply to implements of husbandry, which may not be titled.]~~

(A) [~~(B)~~] Farm tractors owned by agencies exempt from registration fees in accordance with Transportation Code §502.453, are required to be titled and registered with "Exempt" license plates issued in accordance with Transportation Code §502.451.

(B) [~~(C)~~] Tractors [~~Farm tractors~~] used as road tractors to mow rights of way or used to move commodities over the highway for hire are required to be registered and titled.

~~[(D) Owners of farm trailers and farm semitrailers with a gross weight of 34,000 pounds or less may apply for a Texas title. Owners of farm trailers and farm semitrailers with a gross weight in excess of 34,000 pounds shall apply for a Texas title. If a farm trailer or farm semitrailer with a gross weight of 34,000 pounds or less has been titled previously, any subsequent owner shall apply for a Texas title for the farm trailer or farm semitrailer.]~~

(3) Neighborhood electric vehicles. The title requirements of a neighborhood electric vehicle (NEV) are the same requirements prescribed for any motor vehicle.

(4) Trailers, semitrailers, and house trailers. [~~Owners of trailers and semitrailers shall apply for a Texas title for any trailer or semitrailer with a gross weight in excess of 4,000 pounds. Owners of trailers and semitrailers with a gross weight of 4,000 pounds or less may apply for a Texas title.~~] If a trailer or semitrailer with a gross weight of 4,000 pounds or less has been titled previously, any subsequent owner shall apply for a Texas title for the trailer or semitrailer. Travel [~~House~~] trailer-type vehicles must meet the criteria outlined in subparagraph (C) of this paragraph to be titled:

(A) The rated carrying capacity will not be less than one-third of its empty weight.

(B) Mobile office trailers, mobile oil field laboratories, and mobile oil field bunkhouses are not designed as dwellings, but are classified as commercial semitrailers and must be registered and titled as commercial semitrailers if operated on the public streets and highways.

(C) House trailer-type vehicles and camper trailers must meet the following criteria in order to be titled.

(i) A house trailer-type vehicle that is less than eight feet six inches in width or less than 45 feet in length is classified as a travel trailer and shall be registered and titled.

(ii) A camper trailer shall be titled as a house trailer and shall be registered with travel trailer license plates.

(iii) A recreational park model type trailer that is primarily designed as temporary living quarters for recreational, camping or seasonal use, is built on a single chassis, and is 400 square feet or less when measured at the largest horizontal projection when in the set up mode shall be titled as a house trailer and may be issued travel trailer license plates.

(5) Assembled vehicles. The title requirements for assembled vehicles are prescribed in Subchapter L of this title (relating to Assembled Vehicles).

(6) Not Eligible for Title. The following are not eligible for a Texas title regardless of the vehicle's previous title or registration in this or any other jurisdiction:

(A) vehicles that are missing or are stripped of their motor, frame, or body, to the extent that the vehicle loses its original identity or makes the vehicle unsafe for on-road operation as determined by the department;

(B) vehicles designed by the manufacturer for on-track racing only;

(C) vehicles designed or determined by the department to be for off-highway use only, unless specifically defined as a "motor vehicle" in Transportation Code Chapter 501; or

(D) vehicles assembled, built, constructed, rebuilt, or reconstructed in any manner with:

(i) a body or frame from a vehicle which is a "nonrepairable motor vehicle" as that term is defined in Transportation Code §501.091(9); or

(ii) a motor or engine from a vehicle which is flood damaged, water damaged, or any other term which may reasonably establish the vehicle from which the motor or engine was obtained is a loss due to a water related event.

§217.4. Initial Application for Title.

(a) Time for application. A person must apply for the title not later than the 30th day after the date of assignment, except:

(1) in a seller-financed sale, the title must be applied for not later than the 45th day after the date the motor vehicle is delivered to the purchaser;

(2) a member of the armed forces or a member of a reserve component of the United States, a member of the Texas National Guard or of the National Guard of another state serving on active duty, must apply not later than the 60th day after the date of assignment of ownership; or

(3) as otherwise provided by Transportation Code, Chapter 501.

(b) Place of application. Except as otherwise provided by Transportation Code, Chapters 501 and 502, and by §217.84(a) of this title (relating to Application for Nonrepairable or Salvage Vehicle Title), when motor vehicle ownership is transferred, a title application must be filed with:

(1) the county tax assessor-collector in the county in which the applicant resides or in the county in which the motor vehicle was purchased or encumbered; or

(2) a county tax assessor-collector of a county who is willing to accept the application.

(c) Information to be included on application. An applicant for an initial title must file an application on a form prescribed by the department. The form will at a minimum require the:

(1) motor vehicle description including, but not limited to, the motor vehicle:

(A) year;

(B) make;

(C) identification number;

(D) body style; and

(E) empty weight;

(2) license plate number, if the motor vehicle is subject to registration under Transportation Code, Chapter 502;

(3) odometer reading and brand, or the word "exempt" if the motor vehicle is exempt from federal and state odometer disclosure requirements;

(4) previous owner's legal name and municipality and state, if available;

(5) legal name as stated on the identification presented and complete address of the applicant;

(6) name and mailing address of any lienholder and the date of lien, if applicable;

(7) signature of the seller of the motor vehicle or the seller's authorized agent and the date the title application was signed; and

(8) signature of the applicant or the applicant's authorized agent and the date the title application was signed.

(d) Accompanying documentation. The title application must be supported by, at a minimum, the following documents:

(1) evidence of vehicle ownership, as described in §217.5 of this title (relating to Evidence of Motor Vehicle Ownership);

(2) an odometer disclosure statement properly executed by the seller of the motor vehicle and acknowledged by the purchaser, if applicable;

(3) proof of financial responsibility in the applicant's name, as required by Transportation Code, §502.046, unless otherwise exempted by law;

(4) for a vehicle last registered or titled in another state, verification of the vehicle identification number by a process prescribed on a form by the department for the applicant to self-certify the vehicle identification number if the vehicle is not subject to Transportation Code, Chapter 548 [~~inspection report if required by Transportation Code, Chapter 548, and Transportation Code, §501.030, and if the vehicle is being titled and registered, or registered only~~]];

(5) a release of any liens, provided that if any liens are not released, they will be carried forward on the new title application; [~~with the following limitations:~~]

[~~(A) A lien recorded on out-of-state evidence as described in §217.5 cannot be carried forward to a Texas title when there is a transfer of ownership, unless a release of lien or authorization from the lienholder is attached; and~~]

[~~(B) A lien recorded on out-of-state evidence as described in §217.5 is not required to be released when there is no transfer of ownership from an out-of-state title and the same lienholder is being recorded on the Texas application as is recorded on the out-of-state title; and~~]

(6) any documents required by §217.9 of this title (relating to Bonded Titles).

§217.5. Evidence of Motor Vehicle Ownership.

(a) Evidence of motor vehicle ownership properly assigned to the applicant must accompany the title application. Evidence must include, but is not limited to, the following documents.

(1) New motor vehicles. A manufacturer's certificate of origin assigned by the manufacturer or the manufacturer's representative or distributor to the original purchaser is required for a new motor vehicle that is sold or offered for sale.

(A) The manufacturer's certificate of origin must be in the form prescribed by the department and must contain, at a minimum, the following information:

(i) manufacturer's name on the face of the manufacturer's certificate of origin;

(ii) [~~(i)~~]motor vehicle description including, but not limited to, the motor vehicle year, make, model, identification number, and body style;

(iii) [~~(ii)~~] the empty or shipping weight;

(iv) [~~(iii)~~] the gross vehicle weight when the manufacturer's certificate of origin is invoiced to a licensed Texas motor vehicle dealer and is issued for commercial motor vehicles as that term is defined in Transportation Code, Chapter 502;

(v) [~~(iv)~~] a statement identifying a motor vehicle designed by the manufacturer for off-highway use only; [~~and~~]

(vi) if the vehicle is a motor bus, the manufacturer must show the seating capacity (number of passengers) of the motor bus on the manufacturer's certificate; and

(vii) [~~(v)~~] if the vehicle is a "neighborhood electric vehicle," a statement that the vehicle meets Federal Motor Vehicle Safety Standard 500 (49 C.F.R. §571.500) for low-speed vehicles.

(B) When a motor vehicle manufactured in another country is sold directly to a person other than a manufacturer's representative or distributor, the manufacturer's certificate of origin must be assigned to the purchaser by the seller.

(2) Used motor vehicles. Applicants applying for title to a used motor vehicle must relinquish as evidence of ownership one of the following documents: [~~A title issued by the department, a title issued by another state if the motor vehicle was last registered and titled in another state, or other evidence of ownership must be relinquished in support of the title application for any used motor vehicle. A registration receipt is required from a vehicle owner coming from a state that no longer titles vehicles after a certain period of time.~~]

(A) A title issued by the department;

(B) a title issued by another state if the motor vehicle was last titled in another state;

(C) documents evidencing a transfer of motor vehicle ownership by operation of law as listed in Transportation Code §501.074;

(D) a registration receipt if the applicant is coming from a state that no longer titles vehicles after a certain period of time; or

(E) a bill of sale when the applicant presents:

(i) an out-of-state or out-of-country registration receipt that does not provide a transfer of ownership section;

(ii) an out of state title when all dealer reassignment sections have been completed and the issuing state does not utilize supplemental dealer reassignment forms; or

(iii) a non-titled vehicle.

(3) Evidence of Ownership for Purpose of Identification Number Assignment or Reassignment. An applicant for assignment or reassignment of an identification number under Transportation Code §501.033 who is unable to produce evidence of ownership under this section, may file a bond with the department in accordance with Transportation Code §501.053 and §217.9 of this title (relating to Bonded Titles). The bond will serve as evidence of ownership for purposes of §501.033(b).

(4) Motor vehicles brought into the United States. An application for title for a motor vehicle last registered or titled in a foreign country must be supported by documents including, but not limited to, the following:

(A) the motor vehicle registration certificate or other verification issued by a foreign country reflecting the name of the applicant as the motor vehicle owner, or reflecting that legal evidence of ownership has been legally assigned to the applicant;

(B) the identification number inspection required under Transportation Code §501.032(a)(2), except as provided in §501.032(b); and

(C) for motor vehicles that are less than 25 years old, proof of compliance with United States Department of Transportation (USDOT) regulations including, but not limited to, the following documents:

(i) the original bond release letter with all attachments advising that the motor vehicle meets federal motor vehicle safety requirements or a letter issued by the USDOT, National Highway Traffic Safety Administration, verifying the issuance of the original bond release letter;

(ii) a legible copy of the motor vehicle importation form validated with a [~~an original United States Customs stamp, date, and~~] signature as filed with the USDOT confirming the exemption from the bond release letter required in clause (i) of this subparagraph, or a copy thereof certified by United States Customs;

(iii) a verification of motor vehicle inspection by United States Customs certified on its letterhead and signed by its agent verifying that the motor vehicle complies with USDOT regulations;

(iv) a written confirmation that a physical inspection of the safety certification label has been made by the department and that the motor vehicle meets United States motor vehicle safety standards;

(v) the original bond release letter, verification thereof, or written confirmation from the previous state verifying that a bond release letter issued by the USDOT was relinquished to that jurisdiction, if the non-United [~~non United~~] States standard motor vehicle was last titled or registered in another state for one year or less; or

(vi) verification from the vehicle manufacturer on its letterhead stationery.

(b) Alterations to documentation. An alteration to a registration receipt, title, manufacturer's certificate, or other evidence of ownership constitutes a valid reason for the rejection of any transaction to which altered evidence is attached.

(1) Altered lien information on any surrendered evidence of ownership requires a release from the original lienholder or a statement from the proper authority of the state in which the lien originated. The statement must verify the correct lien information.

(2) A strikeover that leaves any doubt about the legibility of any digit in any document will not be accepted.

(3) A corrected manufacturer's certificate of origin will be required if the manufacturer's certificate of origin contains an:

(A) incomplete or altered vehicle identification number;

(B) alteration or strikeover of the vehicle's model year;

(C) alteration or strikeover to the body style, or omitted body style on the manufacturer's certificate of origin; or

(D) alteration or strikeover to the weight.

(4) A statement [~~Statement~~] of fact [~~Fact~~] may be requested to explain errors, corrections, or conditions from which doubt does or could arise concerning the legality of any instrument. A statement [~~Statement~~] of fact [~~Fact~~] will be required in all cases:

(A) in which the date of sale on an assignment has been erased or altered in any manner; or

(B) of alteration or erasure on a Dealer's Reassignment of Title.

(c) Rights of survivorship. A signed "rights of survivorship" agreement may be executed by a natural person acting in an individual capacity in accordance with Transportation Code, §501.031.

(d) Identification required.

(1) An application for title is not acceptable unless the applicant presents a current photo identification of the owner containing a unique identification number [~~and expiration date~~]. The current photo identification [~~document~~] must be a:

(A) driver's license or state identification certificate issued by a state or territory of the United States;

(B) United States or foreign passport;

(C) United States military identification card;

(D) North Atlantic Treaty Organization identification or identification issued under a Status of Forces Agreement;

(E) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State identification document; or

(F) [~~concealed handgun license or~~] license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H.

(2) If the motor vehicle is titled in:

(A) more than one name, then the identification of one owner must be presented;

(B) the name of a leasing company, then:

(i) proof of the Federal Employer Identification Number/Employee Identification Number (FEIN/EIN) of the leasing company must be submitted, written on the application, and can be entered into the department's titling system. The number must correspond to the name of the leasing company in which the vehicle is being titled; and

(ii) the leasing company may submit:

(I) a government issued photo identification, required under paragraph (1) of this subsection, of the lessee listed as the registrant; or

(II) a government issued photo identification, required under paragraph (1) of this subsection, of the employee or authorized agent who signed the application for the leasing company, and the employee's or authorized agent's employee identification, letter of authorization written on the lessor's letterhead, or a printed business card. The printed business card, employee identification, or letter of authorization written on the lessor's letterhead must contain the name of the lessor, and the employee's or authorized agent's name must match the name on the government issued photo identification;

(C) the name of a trust, then a government issued photo identification, required under paragraph (1) of this subsection, of a trustee must be presented; or

(D) the name of a business, government entity, or organization, then:

(i) proof of the Federal Employer Identification Number/Employee Identification Number (FEIN/EIN) of the business, government entity, or organization must be submitted, written on the application, and can be entered into the department's titling system. The number must correspond to the name of the business, government entity, or organization in which the vehicle is being titled;

(ii) the employee or authorized agent must present a government issued photo identification, required under paragraph (1) of this subsection; and

(iii) the employee's or authorized agent's employee identification; letter of authorization written on the business', government entity's, or organization's letterhead; or a printed business card. The printed business card, employee identification, or letter of authorization written on the business', government entity's, or organization's letterhead must contain the name of the business, governmental entity, or organization, and the employee's or authorized agent's name must match the name on the government issued photo identification.

(3) In addition to the requirements of paragraphs (1) and (2) of this subsection, if a power of attorney is being used to apply for a title, then the applicant must show:

(A) identification, required under paragraph (1) of this subsection, matching the person named as power of attorney; or

(B) identification, required under paragraph (1) of this subsection, and employee identification or a printed business card or authorization written on the letterhead of the entity named as power of attorney that matches the identification of the employee if the power of attorney names an entity.

[~~(4) Within this subchapter, "current" is defined as not to exceed 12 months after the expiration date, except that a state-issued personal identification certificate issued to a qualifying person is considered current if the identification states that it has no expiration.~~]

(4) [~~(5)~~] Within this subsection, an identification document such as a printed business card, letter of authorization, or power of attorney, may be an original or a photocopy.

(5) [~~(6)~~] A person who holds a general distinguishing number issued under Transportation Code, Chapter 503 [~~or Occupations Code, Chapter 2301~~] is exempt from submitting to the county tax assessor-collector, but must retain:

(A) the owner's identification, as required under paragraph (1) of this subsection; and

(B) authorization to sign, as required under paragraph (2) of this subsection.

(6) [~~(7)~~] A person who holds a general distinguishing number issued under Transportation Code, Chapter 503 [~~or Occupations Code, Chapter 2301,~~] is not required to submit photo identification or authorization for an employee or agent signing a title assignment with a secure power of attorney.

§217.6. Title Issuance.

(a) Issuance. The department or its designated agent will issue a receipt and process the application for title on receipt of:

(1) a completed application for title;

(2) required accompanying documentation;

(3) the statutory fee for a title application, unless exempt under:

(A) Transportation Code, §501.138; or

(B) Government Code, §437.217 and copies of official military orders are presented as evidence of the applicant's active duty status and deployment orders to a hostile fire zone; and

(4) any other applicable fees.

(b) Titles. The department will issue and mail or deliver a title to the applicant or, in the event that there is a lien disclosed in the application, to the first lienholder unless the title is an electronic record of title.

(c) Receipt. The receipt issued at the time of application for title may be used only as evidence of title and may not be used to transfer any interest or ownership in a motor vehicle or to establish a new lien.

(d) Temporary hold. The department shall place a hold on processing a title application for a motor vehicle if the department receives a request for a hold accompanied by evidence of a legal action regarding ownership of or a lien interest in the motor vehicle. The hold shall continue until a final, nonappealable judgment is entered in the action or the party requesting the hold requests that the hold be removed.

(1) Evidence of a legal action regarding ownership of or a lien interest in a motor vehicle means evidence showing a legal action regarding ownership of or a lien interest in a motor vehicle filed in a district, county, statutory probate court, or bankruptcy court.

(2) Legal actions filed in justice of the peace or municipal courts do not qualify as evidence for purposes of this section unless the case is related to Chapter 47, Code of Criminal Procedure, or Section 27.031, Government Code.

(3) Legal actions regarding ownership of or a lien interest in a motor vehicle must be active on a court's docket. If the evidence presented in support of a request for a hold is a legal action that has been resolved through a final nonappealable judgment, additional evidence of post-judgment legal actions must be presented to place a hold on processing a title.

(4) The department shall place a ten-day temporary hold on processing a title if a party seeking to obtain a 10-day temporary hold presents the VIN of the vehicle for which the hold is sought, and attests that the hold is being requested in order to commence a legal action disputing a title or lien interest in a motor vehicle and not for purposes of delay.

(5) For the purposes of this subsection, a final nonappealable judgment is a judgment for which 30 days have passed from the day the judgment was entered without a notice of appeal being filed.

§217.7. Replacement of Title.

(a) Lost or destroyed title. If a title is lost or destroyed, the department will issue a certified copy of the title to the owner, the lienholder, or a verified agent of the owner or lienholder in accordance with Transportation Code, Chapter 501, on proper application and payment of the appropriate fee to the department.

(b) Identification required.

(1) An owner or lienholder may not apply for a certified copy of title unless the applicant presents a current photo identification of the owner or lienholder containing a unique identification number and expiration date. The current photo identification [~~document~~] must be a:

(A) driver's license or state identification certificate issued by a state or territory of the United States;

(B) United States or foreign passport;

(C) United States military identification card;

(D) North Atlantic Treaty Organization identification or identification issued under a Status of Forces Agreement;

(E) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State identification document; or

(F) [~~concealed handgun license or~~] license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H.

(2) If the motor vehicle is titled in:

(A) more than one name, then the identification for each owner must be presented;

(B) the name of a leasing company, then the lessor's employee or authorized agent who signed the application for the leasing company must present:

(i) a government issued photo identification, required under paragraph (1) of this subsection; and

(ii) employee identification, letter of authorization written on the lessor's letterhead, or a printed business card. The printed business card, employee identification, or letter of authorization written on the lessor's letterhead must contain the name of the lessor, and the employee's or authorized agent's name must match the name on the government issued photo identification;

(C) the name of a trust, then a government issued photo identification, required under paragraph (1) of this subsection, of a trustee must be presented; or

(D) the name of a business, government entity, or organization, then:

(i) the employee or authorized agent must present a government issued photo identification, required under paragraph (1) of this subsection; and

(ii) the employee's or authorized agent's employee identification; letter of authorization written on the business', government entity's, or organization's letterhead; or a printed business card. The printed business card, employee identification, or letter of authorization written on the business', government entity's, or organization's letterhead must contain the name of the business, governmental entity, or organization, and the employee's or authorized agent's name must match the name on the government issued photo identification.

(3) In addition to the requirements of paragraphs (1) and (2) of this subsection, if a power of attorney is being used to apply for a certified copy of title, then the applicant must show:

(A) current photo identification, required under paragraph (1) of this subsection, matching the person named as power of attorney;

(B) current photo identification, required under paragraph (1) of this subsection, and employee identification or a printed business card or authorization written on the letterhead of the entity named as power of attorney that matches the identification of the employee if the power of attorney names an entity; or

(C) current photo identification, required under paragraph (1) of this subsection, of the owner or lienholder.

[~~(4) Within this subchapter, "current" is defined as within 12 months after the expiration date, except that a state-issued personal identification certificate issued to a qualifying person is considered current if the identification states that it has no expiration.~~]

(4) [~~(5)~~] Within this subsection, an identification document, such as a printed business card, letter of authorization, or power of attorney, may be an original or a photocopy.

(c) Issuance. An application for a certified copy must be properly executed and supported by appropriate verifiable proof of the vehicle owner, lienholder, or agent regardless of whether the application is submitted in person or by mail. A certified copy will not be issued until after the 14th day that the original title was issued.

(d) Denial. If issuance of a certified copy is denied, the applicant may resubmit the request with the required verifiable proof or may pursue the privileges available in accordance with Transportation Code, §501.052 and §501.053.

(e) Additional copies. An additional certified copy will not be issued until 30 days after issuance of the previous certified copy.

(f) Fees. The fee for obtaining a certified copy of a title is $2 if the application is submitted to the department by mail and $5.45 if the application is submitted in person for expedited processing at one of the department's regional offices.

§217.8. Second-Hand Vehicle Transfers.

(a) Voluntary notification. A transferor, other than a dealer who holds a general distinguishing number, of a motor vehicle may voluntarily make written notification to the department of the sale of the vehicle, in accordance with Transportation Code, §501.147. The written notification may be submitted to the department by mail, in person at one of the department's regional offices, or electronically through the department's Internet website.

(b) Required notification. A dealer who holds a general distinguishing number is required to submit a written vehicle transfer notification to the department including the information required under Transportation Code, §501.147(b) upon the sale or transfer of a motor vehicle to the dealer. The written notification may be submitted to the department by mail, in person at one of the department's regional offices, or electronically through the department's Internet website.

(c) [~~(b)~~] Records. On receipt of written notice of transfer from the transferor of a motor vehicle or dealer who holds a general distinguishing number, the department will mark its records to indicate the date of transfer and will maintain a record of the information provided on the written notice of transfer.

(d) [~~(c)~~] Title issuance. A title will not be issued in the name of a transferee until the transferee files an application for the title as described in this subchapter.

§217.9. Bonded Titles

(a) Who may file. A person who has an interest in a motor vehicle to which the department has refused to issue a title or has suspended or revoked a title may request issuance of a title from the department on a prescribed form if the vehicle is in the possession of the applicant; and

(1) there is a record that indicates a lien that is less than ten years old and the applicant provides a [~~surety bonding company ensures lien satisfaction or~~] release of all liens and a bond [~~lien~~];

(2) there is a record that indicates there is not a lien or the lien is ten or more years old; or

(3) the department has no previous motor vehicle record.

(b) Administrative fee. The applicant must pay the department a $15 administrative fee in addition to any other required fees.

(c) Value. The amount of the bond must be equal to one and one-half times the value of the vehicle as determined under Tax Code §152.0412 regarding Standard Presumptive Value (SPV). If the SPV is not available, then a national reference guide will be used. If the value cannot be determined by the department through either source, then the person may obtain an appraisal. If a motor vehicle is 25 years or older, a person may obtain an appraisal to determine the value instead of using a national reference guide.

(1) The appraisal must be on a form specified by the department from a Texas licensed motor vehicle dealer for the categories of motor vehicles that the dealer is licensed to sell or a Texas licensed insurance adjuster who may appraise any type of motor vehicle.

(2) The appraisal must be dated and be submitted to the department within 30 days of the appraisal.

(3) If the motor vehicle is 25 years or older and the appraised value of the vehicle is less than $4,000, the bond amount will be established from a value of $4,000.

(4) If the motor vehicle is a trailer or semitrailer, the person may, as an alternative to an appraisal, have the bond amount established from a value of:

(A) $4,000, if under 20 feet in length, or

(B) $7,000, if 20 or more feet in length.

(d) Vehicle identification number inspection. If the department has no motor vehicle record for the vehicle, the vehicle identification number must be verified by an inspection under Transportation Code §501.0321.

(e) Required documentation. An applicant may apply for a bonded title if the applicant submits:

(1) any evidence of ownership;

(2) the original bond within 30 days of issuance;

(3) the notice of determination within one year of issuance and the receipt for $15 paid to the department;

(4) the documentation determining the value of the vehicle;

(5) proof of the vehicle identification number inspection, as described in subsection (d) of this section, if the department has no motor vehicle record for the vehicle;

(6) a weight certificate if the weight cannot otherwise be determined;

(7) [a certification of lien satisfaction by the surety bonding company, or] a release of lien, if the [notice of determination letter states that there may be a] lien is less than ten years old; and

(8) any other required documentation and fees.

(f) Report of Judgment. The bond must require that the surety report payment of any judgment to the department within 30 days.

§217.11. Rescission, Cancellation or Revocation by Affidavit.

(a) Under Transportation Code §501.051(b), the [The] department may rescind, cancel, or revoke an existing title or application for a title if a notarized or county stamped affidavit is completed and presented to the department within 90 days of initial sale containing all of the information required by Transportation Code §501.051(b)(1) - (4).[:]

[(1) a statement that the vehicle involved was a new motor vehicle in the process of a first sale;]

[(2) a statement that the dealer, the applicant, and any lienholder have canceled the sale;]

[(3) a statement that the vehicle was:]

[(A) never in possession of the title applicant; or]

[(B) in the possession of the title applicant;]

[(4) the signatures of the dealer, the applicant, and any lienholder as principal to the document; and]

(b)[(5)] An affidavit must be accompanied by an odometer disclosure statement executed by the purchaser of the motor vehicle and acknowledged by the dealer if the vehicle was ever in the possession of the title applicant. [by the dealer if a statement is made pursuant to paragraph (3)(B) of this subsection to be used for the purpose of determining usage subsequent to sale.]

[(b) A rescission, cancellation, or revocation containing the statement authorized under subsection (a)(3)(B) of this section does not negate the fact that the vehicle has been subject to a previous retail sale.]

§217.14. Exemptions from Title.

Vehicles eligible for machinery license plates and permit license plates in accordance with Transportation Code, §502.146 [registered with the following distinguishing license plates] may not be titled under Transportation Code, Chapter 501.[:]

[(1) vehicles eligible for machinery license plates and permit license plates in accordance with Transportation Code, §502.146; and]

[(2) vehicles eligible for farm trailer license plates in accordance with Transportation Code, §502.433, unless the owner chooses to title a farm semitrailer with a gross weight of more than 4,000 pounds that is registered in accordance with §502.146, as provided by Transportation Code, §501.036.]

§217.15. Title Issuance to Government Agency for Travel Trailer.

(a) A government agency may apply to the department for a title to a travel trailer purchased by or transferred to the government agency if the travel trailer is being used as temporary housing in response to a natural disaster or other declared emergency.

(b) A government agency applying for a title under subsection (a) of this section must comply with §217.4(a), (c), and (d) of this title (relating to Initial Application for Title).

(c) The department will issue a title to a government agency under this section without payment of a fee if the government agency is not applying for registration at the same time. If the government agency is also applying for registration, the government agency must pay any applicable [state inspection] fee under Transportation Code, Chapter 548 to the department at the time of application.

§217.16. Application for Title When Dealer Goes Out of Business.

(a) A person who purchased a vehicle from a dealer who is required to apply for a title on the purchaser's behalf under Transportation Code, §501.0234 may apply for title as prescribed by this section if the dealer has gone out of business and did not apply for title.

(b) For purposes of this section, a dealer has gone out of business if:

(1) the dealer's license has been closed or has expired; or

(2) operations have ceased at the licensed location as determined by the department.

(c) For purposes of this section, a person must obtain a letter on department letterhead stating a dealer has gone out of business. A person may request the letter by contacting the department, including a Regional Service Center, or a county tax assessor-collector's office.

(d) An application under subsection (a) of this section must meet the requirements of §217.4 of this title (relating to Initial Application for Title) except the applicant:

(1) must provide the sales contract, retail installment agreement, or buyer's order in lieu of evidence of vehicle ownership as described in §217.5(a) of this title (relating to Evidence of Motor Vehicle Ownership);

(2) must provide the letter described by subsection (c) of this section; and

(3) is not required to provide a release of lien if the only recorded lienholder is the dealer that has gone out of business.

(e) If a title application under this section does not include a properly completed odometer disclosure statement, as required by Transportation Code, §501.072, the odometer brand will be recorded as "NOT ACTUAL MILEAGE."

(f) The department will waive the payment of the following fees if the applicant can provide evidence showing the fee was paid to the dealer:

(1) a title application fee under Transportation Code, §501.138;

(2) delinquent transfer penalty under Transportation Code, §501.146;

(3) all fees under Transportation Code, Chapter 502; and

(4) the fee associated with the issuance of a license plate or set of license plates [buyer's temporary tag fee] under Transportation Code, §503.063.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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For further information, please call: (512) 465-4160

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SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

43 TAC §§217.22, 217.23, 217.25 - 217.29, 217.31, 217.33, 217.36, 217.37, 217.40, 217.41, 217.43, 217.45, 217.46, 217.50 - 217.56

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department proposes amendments to Chapter 217 under Transportation Code §502.0021, which gives the department authority to adopt rules to administer Transportation Code Chapter 502, Registration of Vehicles; Transportation Code §502.0024, as amended by HB 3297, which requires the department develop and implement a system of registration to allow an owner of a vehicle to register the vehicle for an extended period of not more than five years; Transportation Code §502.040, which authorizes the department to prescribe the process and procedures for applying for a motor vehicle registration; Transportation Code §502.059, which authorizes the department to adopt rules providing for an automated registration process; Transportation Code §502.095, as amended by HB 718, which gives the department authority to issue one-trip and 30-day license plates; Transportation Code §502.1911, which authorizes the board to adopt rules to set registration processing and handing fees; Transportation Code §502.451(c), which authorizes the department to adopt rules to provide for the issuance of specially designated license plates for vehicles exempt by law, and Transportation Code §502.451(f), which authorizes the department to adopt rules to provide for the issuance of regularly designed license plates not bearing the word "exempt" for a vehicle that is exempt by law. Transportation Code §504.0011, which gives the department authority to implement and administer Transportation Code, Chapter 504, License Plates; Transportation Code §504.010, which authorizes the department to adopt rules governing the placement of license plates on motor vehicles; Transportation Code §520.003, which authorizes the department to adopt rules to administer Transportation Code §520, Miscellaneous Provisions; Transportation Code §520.004, which authorizes the department to adopt rules to establish standards for uniformity and service quality for counties conducting registration and titling services; Transportation Code §520.0055, as created by HB 718, gives the department authority to mandate motor vehicle dealers use a department designated electronic system to submit title and registration applications to county tax assessor-collectors for motor vehicle transactions; and Transportation Code §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout the this preamble.

CROSS REFERENCE TO STATUTE. The proposed amendments would implement Transportation Code §§502.0021, 502.0024, 502.040, 502.059, 502.095, 502.1911, 502.451(c), 502.451(f), 504.0011, 540.010, 520.003, 520.004, 520.0055, and 1002.

§217.22. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Affidavit for alias exempt registration--A form prescribed by the director that must be executed by an exempt law enforcement agency to request the issuance of exempt registration in the name of an alias.

(2) Agent--A duly authorized representative possessing legal capacity to act for an individual or legal entity.

(3) Alias--The name of a vehicle registrant reflected on the registration, different than the name of the legal owner of the vehicle.

(4) Alias exempt registration--Registration issued under an alias to a specific vehicle to be used in covert criminal investigations by a law enforcement agency.

(5) Axle load--The total load transmitted to the road by all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.

(6) Border commercial zone--A commercial zone established under Title 49, C.F.R., Part 372 that is contiguous to the border with Mexico.

(7) Bus--A motor vehicle used to transport persons and designed to accommodate more than 10 passengers, including the operator; or a motor vehicle, other than a taxicab, designed and used to transport persons for compensation.

(8) Carrying capacity--The maximum safe load that a commercial vehicle may carry, as determined by the manufacturer.

(9) Character--A numeric or alpha symbol displayed on a license plate.

(10) County or city civil defense agency--An agency authorized by a commissioner's court order or by a city ordinance to provide protective measures and emergency relief activities in the event of hostile attack, sabotage, or natural disaster.

(11) Current photo identification-- a government-issued photo identification that is currently valid or is within 12 months of the expiration date, or a state-issued personal identification certificate issued to a qualifying person if the identification states that it has no expiration.

(12) [~~(11)~~] Digital license plate--As defined in Transportation Code, §504.151.

(13) [~~(12)~~] Digital license plate owner--A digital license plate owner is a person who purchases or leases a digital license plate from a department-approved digital license plate provider.

(14) [~~(13)~~] Director--The director of the Vehicle Titles and Registration Division, Texas Department of Motor Vehicles.

(15) [~~(14)~~] Division--Vehicle Titles and Registration Division.

(16) [~~(15)~~] Executive administrator--The director of a federal agency, the director of a Texas state agency, the sheriff of a Texas county, or the chief of police of a Texas city that by law possesses the authority to conduct covert criminal investigations.

(17) [~~(16)~~] Exempt agency--A governmental body exempted by statute from paying registration fees when registering motor vehicles.

(18) [~~(17)~~] Exempt license plates--Specially designated license plates issued to certain vehicles owned or controlled by exempt agencies.

(19) [~~(18)~~] Exhibition vehicle--

(A) An assembled complete passenger car, truck, or motorcycle that:

(i) is a collector's item;

(ii) is used exclusively for exhibitions, club activities, parades, and other functions of public interest;

(iii) does not carry advertising; and

(iv) has a frame, body, and motor that is at least 25-years old; or

(B) A former military vehicle as defined in Transportation Code, §504.502.

(20) [~~(19)~~] Fire-fighting equipment--Equipment mounted on fire-fighting vehicles used in the process of fighting fires, including, but not limited to, ladders and hoses.

(21) [~~(20)~~] Foreign commercial motor vehicle--A commercial motor vehicle, as defined by 49 C.F.R. §390.5, that is owned by a person or entity that is domiciled in or a citizen of a country other than the United States.

(22) [~~(21)~~] GPS-- A global positioning system tracking device that can be used to determine the location of a digital license plate through data collection by means of a receiver in a digital license plate.

(23) [~~(22)~~] Highway construction project--That section of the highway between the warning signs giving notice of a construction area.

(24) [~~(23)~~] International symbol of access--The symbol adopted by Rehabilitation International in 1969 at its Eleventh World Congress of Rehabilitation of the Disabled.

~~[(24) Legally blind--Having not more than 20/200 visual acuity in the better eye with correcting lenses, or visual acuity greater than 20/200 but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.]~~

(25) Legend--A name, motto, slogan, or registration expiration notification that is centered horizontally at the bottom of the license plate.

(26) Make--The trade name of the vehicle manufacturer.

(27) Metal license plate--A non-digital license plate issued by the department under Transportation Code Chapter 502, 503, or Chapter 504.

(28) Nonprofit organization--An unincorporated association or society or a corporation that is incorporated or holds a certificate of authority under the Business Organizations Code.

(29) Nominating State Agency--A state agency authorized to accept and distribute funds from the sale of a specialty plate as designated by the nonprofit organization (sponsoring entity).

(30) Optional digital license plate information--Any information authorized to be displayed on a digital license plate in addition to required digital license plate information when the vehicle is in park, including:

(A) an emergency alert or other public safety alert issued by a governmental entity, including an alert authorized under Subchapter L, M, or P of Government Code Chapter 411;

(B) vehicle manufacturer safety recall notices;

(C) advertising; or

(D) a parking permit.

(31) Park--As defined in Transportation Code, §541.401.

(32) Political subdivision--A county, municipality, local board, or other body of this state having authority to provide a public service.

(33) Primary region of interest--The field on a metal or digital license plate with alphanumeric characters representing the plate number. The primary region of interest encompasses a field of 5.75 inches in width by 1.75 inches in height on metal license plates manufactured for motorcycles, mopeds, golf carts, or off-highway vehicles. The primary region of interest encompasses a field of 8.375 inches in width by 2.5625 inches in height on metal license plates manufactured for all other vehicles.

(34) Registration period--A designated period during which registration is valid. A registration period begins on the first day of a calendar month and ends on the last day of a calendar month.

(35) Required digital license plate information--The minimum information required to be displayed on a digital license plate: the registration expiration month and year (unless the vehicle is a token trailer as defined by Transportation Code, §502.001), the alphanumeric characters representing the plate number, the word "Texas," the registration expiration notification if the registration for the vehicle has expired; and the legend (if applicable).

(36) Secondary region of interest--The field on a metal or digital license plate with the word "Texas" centered horizontally at the top of the plate. The secondary region of interest encompasses a field of 2.5 inches in width by 0.5625 inches in height on metal license plates manufactured for motorcycles, mopeds, golf carts, or off-highway vehicles. The secondary region of interest encompasses a field of 6 inches in width by 1.9375 inches in height on metal license plates manufactured for all other vehicles.

(37) Service agreement--A contractual agreement that allows individuals or businesses to access the department's vehicle registration records.

(38) Specialty license plate--A special design license plate issued by the department [~~under SA~~].

(39) Specialty license plate fee--Statutorily or department required fee payable on submission of an application for a specialty license plate, symbol, tab, or other device, and collected in addition to statutory motor vehicle registration fees.

(40) Sponsoring entity--An institution, college, university, sports team, or any other non-profit individual or group that desires to support a particular specialty license plate by coordinating the collection and submission of the prescribed applications and associated license plate fees or deposits for that particular license plate.

(41) Street or suburban bus--A vehicle, other than a passenger car, used to transport persons for compensation exclusively within the limits of a municipality or a suburban addition to a municipality.

(42) Tandem axle group--Two or more axles spaced 40 inches or more apart from center to center having at least one common point of weight suspension.

(43) Unconventional vehicle--A vehicle built entirely as machinery from the ground up, that is permanently designed to perform a specific function, and is not designed to transport property.

(44) Vehicle classification--The grouping of vehicles in categories for the purpose of registration, based on design, carrying capacity, or use.

(45) Vehicle description--Information regarding a specific vehicle, including, but not limited to, the vehicle make, model year, body style, and vehicle identification number.

(46) Vehicle identification number--A number assigned by the manufacturer of a motor vehicle or the department that describes the motor vehicle for purposes of identification.

[(47) Vehicle inspection sticker--A sticker issued by the Texas Department of Public Safety signifying that a vehicle has passed all applicable safety and emissions tests.]

(47) [(48)] Vehicle registration insignia--A license plate, symbol, tab, or other device issued by the department evidencing that all applicable fees have been paid for the current registration period and allowing the vehicle to be operated on the public highways.

(48) [(49)] Vehicle registration record--Information contained in the department's files that reflects, but is not limited to, the make, vehicle identification number, model year, body style, license number, and the name of the registered owner.

(49) [(50)] Volunteer fire department--An association that is organized for the purpose of answering fire alarms, extinguishing fires, and providing emergency medical services.

§217.23. Initial Application for Vehicle Registration.

(a) An applicant for initial vehicle registration must file an application on a form prescribed by the department. The form will at a minimum require:

(1) the signature of the owner;

(2) the motor vehicle description, including, but not limited to, the motor vehicle's year, make, model, vehicle identification number, body style, carrying capacity for commercial motor vehicles, and empty weight;

(3) the license plate number;

(4) the odometer reading, or the word "exempt" if the motor vehicle is exempt from federal and state odometer disclosure requirements;

(5) the name and complete address of the applicant; and

(6) the name, mailing address, and date of any liens.

(b) The application must be accompanied by the following:

(1) evidence of vehicle ownership as specified in §217.5 of this title (relating to Evidence of Motor Vehicle Ownership) [Transportation Code, §501.030], unless the vehicle has been issued a nonrepairable or salvage vehicle title in accordance with Transportation Code, Chapter 501, Subchapter E;

(2) registration fees prescribed by law;

(3) any local fees or other fees prescribed by law and collected in conjunction with registering a vehicle;

(4) evidence of financial responsibility required by Transportation Code, §502.046, unless otherwise exempted by law;

(5) the processing and handling fee prescribed by §217.183 of this title (relating to Fee Amount); and

(6) any other documents or fees required by law.

(c) An initial application for registration must be filed with the tax assessor-collector of the county in which the owner resides or any county tax assessor-collector who is willing to accept the application, except as provided in subsection (d) of this section.

(d) An application for registration, as a prerequisite to filing an application for title, may be filed with the county tax assessor-collector in the county in which:

(1) the owner resides;

(2) the motor vehicle is purchased or encumbered; or

(3) a county tax assessor-collector who is willing to accept the application.

§217.25. Out-of-State Vehicles.

A vehicle brought to Texas from out-of-state must be registered within 30 days of the date on which the owner establishes residence or secures gainful employment, except as provided by Transportation Code, §502.090 and Transportation Code, §502.145. Accompanying a completed application, an applicant must provide:

(1) an application for title as required by Transportation Code, Chapter 501, if the vehicle to be registered has not been previously titled in this state; and

(2) any other documents or fees required by law.

§217.26. Identification Required.

(a) An application for initial registration is not acceptable unless the applicant presents a current photo identification of the owner containing a unique identification number and expiration date. The current photo identification [document] must be a:

(1) driver's license or state identification certificate issued by a state or territory of the United States;

(2) United States or foreign passport;

(3) United States military identification card;

(4) North Atlantic Treaty Organization identification or identification issued under a Status of Forces Agreement;

(5) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State identification document; or

(6) [concealed handgun license or] license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H.

(b) If the motor vehicle is titled in:

(1) more than one name, then the identification of one owner must be presented;

(2) the name of a leasing company, then:

(A) proof of the Federal Employer Identification Number/Employee Identification Number (FEIN/EIN) of the leasing company must be submitted, written on the application, and can be entered into the department's titling system. The number must correspond to the name of the leasing company in which the vehicle is being titled; and

(B) the leasing company may submit:

(i) a current [government issued] photo identification, required under this section, of the lessee listed as the registrant; or

(ii) a current [government issued] photo identification, required under this section, of the employee or authorized agent who signed the application for the leasing company, and the employee's or authorized agent's employee identification, letter of authorization written on the lessor's letterhead, or a printed business card. The printed business card, employee identification, or letter of authorization written on the lessor's letterhead must contain the name of the lessor, and the employee's or authorized agent's name must match the name on the current [government issued] photo identification;

(3) the name of a trust, then a current [~~government issued~~] photo identification, required under this section, of a trustee must be presented; or

(4) the name of a business, government entity, or organization, then:

(A) proof of the Federal Employer Identification Number/Employee Identification Number (FEIN/EIN) of the business, government entity, or organization must be submitted, written on the application, and can be entered into the department's titling system. The number must correspond to the name of the business, government entity, or organization in which the vehicle is being titled;

(B) the employee or authorized agent must present a current [~~government issued~~] photo identification, required under this section; and

(C) the employee's or authorized agent's employee identification; letter of authorization written on the business', government entity's, or organization's letterhead; or a printed business card. The printed business card, employee identification, or letter of authorization written on the business', government entity's, or organization's letterhead must contain the name of the business, governmental entity, or organization, and the employee's or authorized agent's name must match the name on the current [~~government issued~~] photo identification.

~~[(c) Within this section, "current" is defined as not to exceed 12 months after the expiration date, except that a state-issued personal identification certificate issued to a qualifying person is considered current if the identification states that it has no expiration.]~~

(c) [~~(d)~~] Within this section, an identification document such as a printed business card, letter of authorization, or power of attorney, may be an original or photocopy.

(d) [~~(e)~~] A person who holds a general distinguishing number issued under Transportation Code, Chapter 503 [~~or Occupations Code, Chapter 2301,~~] is exempt from submitting to the county tax assessor-collector, but must retain:

(1) the owner's identification, as required under this section; and

(2) authorization to sign, as required under this section.

(e) [~~(f)~~] A person who holds a general distinguishing number issued under Transportation Code, Chapter 503 [~~or Occupations Code, Chapter 2301,~~] is not required to submit photo identification or authorization for an employee or agent signing a title assignment with a secure power of attorney.

(f) [~~(g)~~] This section does not apply to non-titled vehicles.

§217.27. Vehicle Registration Insignia.

(a) On receipt of a complete initial application for registration with the accompanying documents and fees, the department will issue vehicle registration insignia to be displayed on or kept in the vehicle for which the registration was issued for the current registration period.

(1) If the vehicle has a windshield, the vehicle registration insignia [~~the symbol, tab, or other device prescribed by and issued by the department~~] shall be attached to the inside lower left corner of the vehicle's front windshield in a manner that will not obstruct the vision of the driver, unless the vehicle is registered under Transportation Code, Chapter 504, Subchapter B-1.

(2) If the vehicle has no windshield, the symbol, tab, or other device prescribed by and issued by the department shall be attached to the rear license plate unless the vehicle is registered under Transportation Code, Chapter 504, Subchapter B-1, except that registration receipts, retained inside the vehicle, may provide the record of registration for vehicles with permanent trailer plates.

(3) If the vehicle is registered under Transportation Code, Chapter 504, Subchapter B-1, the registration receipt, symbol, tab, or other device prescribed by and issued by the department must be retained with the vehicle and may provide the record of registration for vehicles with a digital license plate. The expiration month and year must appear digitally on the electronic visual display of the rear digital license plate.

(4) If the vehicle is registered as a former military vehicle as prescribed by Transportation Code, §504.502, the vehicle's registration number shall be displayed instead of displaying a symbol, tab, or license plate.

(A) Former military vehicle registration numbers shall be displayed on a prominent location on the vehicle in numbers and letters of at least two inches in height.

(B) To the extent possible, the location and design of the former military vehicle registration number must conform to the vehicle's original military registration number.

(b) Unless otherwise prescribed by law, each vehicle registered under this subchapter:

(1) must display two license plates that are clearly visible, readable, and legible, one at the exterior front and one at the exterior rear of the vehicle that are securely fastened at the exterior front and rear of the vehicle in an upright horizontal position of not less than 12 inches from the ground, measuring from the bottom[~~, except that a vehicle described by Transportation Code, §621.2061 may place the rear plate so that it is clearly visible, readable, and legible~~]; or

(2) must display one plate that is securely fastened at or as close as practical to the exterior rear of the vehicle in a position not less than 12 inches from the ground, measuring from the bottom if the vehicle is a road tractor, motorcycle, trailer or semitrailer, except that a vehicle described by Transportation Code, §621.2061 may place the rear plate so that it is clearly visible, readable, and legible.

(c) Each vehicle registered under this subchapter must display license plates:

(1) assigned by the department for the period; or

(2) validated by a registration insignia issued by the department for a registration period consisting of 12 consecutive months at the time of application for registration, except that:

(A) vehicles described by Transportation Code, §502.0024 [~~trailers, semitrailers, or pole trailers not subject to inspection under §548.052(3)~~] may obtain a registration insignia for a period consisting of 12, 24, 36, 48 or 60 consecutive months on payment of all fees for each full year of registration; and

(B) vehicles may be registered for 24 consecutive months in accordance with Transportation Code, §548.102 on payment of all fees for each year of registration, regardless of the number of months remaining on the inspection at the time of registration, provided:

(i) the vehicle receives a two-year inspection under Transportation Code, §548.102; and

(ii) the application for registration is made in the name of the purchaser under Transportation Code, §501.0234.

(d) The department may cancel any license plate issued with a personalized license plate number [~~alphanumeric pattern~~] if the department subsequently determines or discovers that the personalized license plate number [~~alphanumeric pattern~~] did not comply with this section when the license plate was issued, or if due to changing language usage, meaning, or interpretation, the personalized license plate number [~~alphanumeric pattern~~] no longer complies with this section. When reviewing a personalized license plate number [~~alphanumeric pattern~~], the department need not consider the applicant's subjective intent or declared meaning. The department will not issue any license plate containing a personalized license plate number [~~alphanumeric pattern~~] that meets one or more of the following criteria:

(1) The license plate number [~~alphanumeric pattern~~] conflicts with the department's current or proposed general issue [~~regular~~] license plate numbering system.

(2) The director or the director's designee finds that the personalized license plate number [~~alphanumeric pattern~~] may be considered objectionable. An objectionable license plate number [~~alphanumeric pattern~~] may include words, [~~or~~] phrases, or slang in any language; phonetic, numeric, or reverse spelling; acronyms; patterns viewed in mirror image; or code that only a small segment of the community may be able to readily decipher. An objectionable pattern may be viewed as:

(A) indecent (defined as including a direct reference or connotation to a sexual act, sexual body parts, excreta, or sexual bodily fluids or functions. Additionally, the license plate number [~~alphanumeric pattern~~] "69" is prohibited unless used with the full year (1969) or in combination with a reference to a vehicle;

(B) vulgar, directly or indirectly (defined as profane, swear, or curse words);

(C) derogatory, directly or indirectly (defined as an expression that is demeaning to, belittles, or disparages any person, group, race, ethnicity, nationality, gender, or sexual orientation. "Derogatory" may also include a reference to an organization that advocates the expressions described in this subparagraph);

(D) a direct or indirect negative instruction or command directed at another individual related to the operation of a motor vehicle;

(E) a direct or indirect reference to gangs, illegal activities, implied threats of harm, or expressions that describe, advertise, advocate, promote, encourage, glorify, or condone violence, crime, or unlawful conduct;

(F) a direct or indirect reference to controlled substances or the physiological state produced by such substances, intoxicated states, or a direct or indirect reference that may express, describe, advertise, advocate, promote, encourage, or glorify such substances or states;

(G) a direct representation of law enforcement or other governmental entities, including any reference to a public office or position exclusive to government; or

(H) a pattern that could be misread by law enforcement.

(3) The license plate number [~~alphanumeric pattern~~] is currently on a license plate issued to another owner.

(e) Notwithstanding the provisions of this section, the department may issue license plates with personalized license plate numbers [~~alphanumeric patterns~~] that refer to:

(1) military branches, military rank, military units, military equipment, or status; or

(2) institutions of higher education, including military academies, whether funded privately, by the state, or by the federal government.

(f) A decision to cancel or not to issue a license plate with a personalized license plate number [~~alphanumeric pattern~~] under subsection (d) of this section may be appealed to the executive director of the department or the executive director's designee within 20 days of notification of the cancellation or non-issuance. All appeals must be in writing, and the requesting party may include any written arguments, but shall not be entitled to a contested case hearing. The executive director or the executive director's designee will issue a decision no later than 30 days after the department receives the appeal, unless additional information is sought from the requestor, in which case the time for decision is tolled until the additional information is provided. The decision of the executive director or the executive director's designee is final and may not be appealed to the board. An appeal to the executive director or the executive director's designee is denied by operation of law 31 days from the receipt of the appeal, or if the requestor does not provide additional requested information within ten days of the request.

(g) The provisions of subsection (a) of this section do not apply to vehicles registered with annual license plates issued by the department.

(h) A person whose initial application has been denied will receive a refund if the denial is not appealed in accordance with subsection (f) of this section. If an existing license plate with a personalized license plate number [~~alphanumeric pattern~~] has been canceled, the person may choose a new personalized license plate number [~~alphanumeric pattern~~] that will be valid for the remainder of the term, or the remaining term of the canceled license plate will be forfeited.

§217.28. Vehicle Registration Renewal.

(a) To renew vehicle registration, a vehicle owner must apply to the tax assessor-collector of the county in which the owner resides or a county tax assessor-collector who is willing to accept the application.

(b) The department will send a registration renewal notice, indicating the proper registration fee and the month and year the registration expires, to each vehicle owner prior to the expiration of the vehicle's registration.

(c) The registration renewal notice should be returned by the vehicle owner to the county tax assessor-collector in the county in which the owner resides or a county tax assessor-collector who is willing to accept the application, or to that tax assessor-collector's deputy, either in person or by mail, unless the vehicle owner renews via the Internet. The renewal notice must be accompanied by the following documents and fees:

(1) registration renewal fees prescribed by law;

(2) any local fees or other fees prescribed by law and collected in conjunction with registration renewal; and

(3) evidence of financial responsibility required by Transportation Code, §502.046, unless otherwise exempted by law.

(d) If a registration renewal notice is lost, destroyed, or not received by the vehicle owner, the vehicle may be registered if the owner presents personal identification acceptable to the county tax assessor-collector or via the Internet. Failure to receive the notice does not relieve the owner of the responsibility to renew the vehicle's registration.

(e) Renewal of expired vehicle registrations.

[(1) In accordance with Transportation Code, §502.407, a vehicle with an expired registration may not be operated on the highways of the state after the fifth working day after the date a vehicle registration expires.]

(1) [(2)] If the owner has been arrested or cited for operating the vehicle without valid registration then a 20% delinquency penalty is due when registration is renewed, the full annual fee will be collected, and the vehicle registration expiration month will remain the same.

(2) [(3)] If the county tax assessor-collector or the department determines that a registrant has a valid reason for being delinquent in registration, the vehicle owner will be required to pay for 12 months' registration. Renewal will establish a new registration expiration month that will end on the last day of the eleventh month following the month of registration renewal.

(3) [(4)] If the county tax assessor-collector or the department determines that a registrant does not have a valid reason for being delinquent in registration, the full annual fee will be collected and the vehicle registration expiration month will remain the same.

(4) [(5)] Specialty license plates, symbols, tabs, or other devices may be prorated as provided in §217.45(d)(2) of this title (relating to Specialty License Plates, Symbols, Tabs, and Other Devices).

(5) [(6)] Evidence of a valid reason may include receipts, passport dates, and military orders. Valid reasons may include:

(A) extensive repairs on the vehicle;

(B) the person was out of the country;

(C) the vehicle is used only for seasonal use;

(D) military orders;

(E) storage of the vehicle;

(F) a medical condition such as an extended hospital stay; and

(G) any other reason submitted with evidence that the county tax assessor-collector or the department determines is valid.

(6) The operation of a vehicle with an expired registration that has been stored or otherwise not in operation that is driven only to an inspection station for the purpose of obtaining an inspection, if applicable, required for registration, will not affect the determination of whether the registrant has a valid or invalid reason for being delinquent.

(f) For purposes of Transportation Code §502.407(c), the county tax assessor-collector's office of the county in which the owner resides is closed for a protracted period of time if the county tax assessor-collector's office has notified the department that it is closed or will be closed for more than one week.

§217.29. Vehicle Registration Renewal via Internet.

(a) Internet registration renewal program. The department will maintain a uniform Internet registration renewal process. This process will provide for the renewal of vehicle registrations via the Internet and will be in addition to vehicle registration procedures provided for in §217.28 of this title (relating to Vehicle Registration Renewal). The Internet registration renewal program will be facilitated by a third-party vendor.

(b) County participation in program. All county tax assessor-collectors shall process registration renewals through an online system designated by the department.

(c) Eligibility of individuals for participation. To be eligible to renew a vehicle's registration via the Internet, the vehicle owner must meet all criteria for registration renewal outlined in this subchapter and in Transportation Code, Chapter 502.

[(d) Fees. This subsection applies to vehicle registrations expiring prior to January 1, 2017 that are submitted for renewal prior to July 1, 2017. A vehicle owner who renews registration via the Internet must pay:]

[(1) registration fees prescribed by law;]

[(2) any local fees or other fees prescribed by law and collected in conjunction with registering a vehicle;]

[(3) a fee of $1 for the processing of a registration renewal by mail in accordance with Transportation Code, §502.197(a); and]

[(4) a convenience fee of $2 for the processing of an electronic registration renewal paid by a credit card payment in accordance with Transportation Code, §1001.009.]

(d) [(e)] Information to be submitted by vehicle owner. A vehicle owner who renews registration via the Internet must submit or verify the following information:

(1) registrant information, including the vehicle owner's name and county of residence;

(2) vehicle information, including the license plate number of the vehicle to be registered;

(3) insurance information, including the name of the insurance company, the name of the insurance company's agent (if applicable), the telephone number of the insurance company or agent (local or toll free number serviced Monday through Friday 8:00 a.m. to 5:00 p.m.), the insurance policy number, and representation that the policy meets all applicable legal standards;

(4) credit card information, including the type of credit card, the name appearing on the credit card, the credit card number, and the expiration date; and

(5) other information prescribed by rule or statute.

[(f) Duties of the county. For vehicle registrations that expire prior to January 1, 2017 that are submitted for renewal prior to July 1, 2017, a county tax assessor-collector shall:]

[(1) accept electronic payment for vehicle registration renewal via the Internet;]

[(2) execute an agreement with the department as provided by the director;]

[(3) process qualified Internet registration renewal transactions as submitted by the third-party vendor;]

[(4) communicate with the third-party vendor and applicants via email, regular mail, or other means, as specified by the director;]

[(5) promptly mail renewal registration validation stickers and license plates to applicants;]

[(6) ensure that all requirements for registration renewal are met, including all requirements set forth in this subchapter, and in Transportation Code, Chapter 502;]

[(7) reject applications that do not meet all requirements set forth in this chapter, and in Transportation Code, Chapter 502; and]

[(8) register each vehicle for a 12-month period.]

(e) [(g)] Duties of the county. [For vehicle registrations that expire on or after January 1, 2017, and registrations that expired prior to January 1, 2017 that are submitted for renewal on or after July 1,

~~2017,~~] Acccountability [~~accountability~~] county tax assessor-collector shall:

(1) accept electronic payment for vehicle registration renewal via the Internet;

(2) execute an agreement with the department as provided by the director;

(3) process qualified Internet registration renewal transactions as submitted by the third-party vendor;

(4) communicate with the third-party vendor and applicants via email, regular mail, or other means, as specified by the director;

(5) reject applications that do not meet all requirements set forth in this chapter, and in Transportation Code, Chapter 502; and

(6) register each vehicle for a 12-month period.

(f) [~~(h)~~] Duties of the department. For vehicle registration renewals [~~registrations~~] that are submitted via the Internet, the department and its centralized third-party vendor shall promptly facilitate and mail vehicle registration insignias to applicants [~~expire on or after January 1, 2017, and registrations that expired prior to January 1, 2017 that are submitted for renewal on or after July 1, 2017, the department shall promptly mail renewal registration validation stickers and license plates to applicants~~].

§217.31. Heavy Vehicle Use Tax.

(a) As applicable, an applicant must provide proof of payment of the heavy vehicle use tax imposed by 26 U.S.C. §4481, et seq. and 26 C.F.R. Part 41 with an application under this chapter as required by 26 C.F.R. §41.6001-2.

(b) The department adopts by reference 26 C.F.R. §41.6001-2.

§217.33. Commercial Farm Motor Vehicles, Farm Trailers, and Farm Semitrailers.

(a) An applicant must provide a properly completed application for farm license plates. Except as provided by subsection (d) of this section, the application must be accompanied by proof of the applicant's Texas Agriculture or Timber Exemption Registration Number issued by the Texas Comptroller of Public Accounts. Proof of the registration number must be:

(1) legible;

(2) current; and

(3) in the name of the person or dba in which the vehicle is or will be registered, pursuant to Transportation Code, §502.146 and §502.433.

(b) A registration renewal of farm license plates must be accompanied by proof of the applicant's Texas Agriculture or Timber Exemption Registration Number issued by the Texas Comptroller of Public Accounts.

(c) In accordance with Transportation Code, §502.146 and §502.433, an applicant's Texas Agriculture or Timber Exemption Registration Number may be verified through the online system established by the Comptroller.

(d) A farmers' cooperative society incorporated under Agriculture Code, Chapter 51, or a marketing association organized under Agriculture Code, Chapter 52 applying for or renewing the registration of farm license plates under this section is not required to submit proof of the applicant's Texas Agriculture or Timber Exemption Registration issued by the Texas Comptroller of Public Accounts.

§217.36. Refusal to Register by Local Government and Record Notation.

(a) Enforcement of traffic warrant. A municipality may enter into a contract with the department under Government Code, Chapter 791, to indicate in the state's motor vehicle records that the owner of the vehicle is a person for whom a warrant of arrest is outstanding for failure to appear or who has failed to pay a fine on a complaint involving a violation of a traffic law. In accordance with Transportation Code, §702.003, a county tax assessor-collector may refuse to register a motor vehicle if such a failure is indicated in the motor vehicle record for that motor vehicle. A municipality is responsible for obtaining the agreement of the county in which the municipality is located to refuse to register motor vehicles for failure to pay civil penalties imposed by the municipality.

(b) Refusal to register vehicle in certain counties. A county may enter into a contract with the department under Government Code, Chapter 791 to indicate in the state's motor vehicle records that the owner of the vehicle has failed to pay a fine, fee, or tax that is past due. In accordance with Transportation Code, §502.010, a county tax assessor-collector may refuse to register a motor vehicle if such a failure is indicated in the motor vehicle record for that motor vehicle.

(c) Record notation. A contract between the department and a county, municipality, or local authority entered into under Transportation Code §502.010 or Transportation Code §702.003 will contain the terms set out in this subsection.

(1) To place or remove a registration denial flag on a vehicle record, the contracting entity must submit data electronically by secure file transfer protocol [~~a magnetic tape~~] or other acceptable submission medium as determined by the department in a format prescribed by the department.

(2) The information submitted by the contracting entity will include, at a minimum, the vehicle identification number and the license plate number of the affected vehicle.

(3) If the contracting entity data submission contains bad or corrupted data, the submission medium will be returned to the contracting entity with no further action by the department.

(4) The secure file transfer protocol [~~magnetic tape~~] or other submission medium must be submitted to the department from a single source within the contracting entity.

(5) The submission of a secure file transfer protocol [~~magnetic tape~~] or other submission medium to the department by a contracting entity constitutes a certification by that entity that it has complied with all applicable laws.

§217.37. Fees.

[~~(a)~~] The department and the county will charge required fees, and only those fees provided by statute or rule.

[~~(b) A $2 fee for a duplicate registration receipt will be charged if a receipt is printed for the customer.~~]

§217.40. Special Registrations.

(a) Purpose and scope. Transportation Code, Chapter 502, Subchapters C and I, charge the department with the responsibility of issuing special registration permits and special registration license plates, which shall be recognized as legal registration for the movement of motor vehicles not authorized to travel on Texas public highways for lack of registration or for lack of reciprocity with the state or country in which the vehicles are registered. For the department to efficiently and effectively perform these duties, this section prescribes the policies and procedures for the application and the issuance of special [~~temporary~~] registration permits and special registration license plates.

(b) Permit categories. The department will issue the following categories of special registration permits.

(1) Additional weight permits in accordance with Transportation Code, §502.434. [The owner of a truck, truck tractor, trailer, or semitrailer may purchase temporary additional weight permits for the purpose of transporting the owner's own seasonal agricultural products to market or other points for sale or processing in accordance with Transportation Code, §502.434. In addition, such vehicles may be used for the transportation without charge of seasonal laborers from their place of residence, and materials, tools, equipment, and supplies from the place of purchase or storage, to a farm or ranch exclusively for use on such farm or ranch.]

[(A) Additional weight permits are valid for a limited period of less than one year.]

[(B) An additional weight permit will not be issued for a period of less than one month or extended beyond the expiration of a license plate issued under Transportation Code, Chapter 502.]

[(C) The statutory fee for an additional weight permit is based on a percentage of the difference between the owner's annual registration fee and the annual fee for the desired gross vehicle weight computed as follows:]

[(i) one-month (or 30 consecutive days)--10%;]

[(ii) one-quarter (three consecutive months)--30%;]

[(iii) two-quarters (six consecutive months)--60%; or]

[(iv) three-quarters (nine consecutive months)--90%.]

[(D) Additional weight permits are issued for calendar quarters with the first quarter to begin on April 1st of each year.]

(A) [(E)] A permit will not be issued unless the registration fee for hauling the additional weight has been paid prior to the actual hauling.

(B) [(F)] An applicant must provide proof of the applicant's Texas Agriculture or Timber Exemption Registration Number issued by the Texas Comptroller of Public Accounts. Proof of the registration number must be:

(i) legible;

(ii) current;

(iii) in the name of the person or dba in which the vehicle is or will be registered; and

(iv) verifiable through the online system established by the Comptroller.

(2) Annual permits in accordance with Transportation Code, §502.093.

(A) [Transportation Code, §502.093 authorizes the department to issue annual permits to provide for the movement of foreign commercial vehicles that are not authorized to travel on Texas highways for lack of registration or for lack of reciprocity with the state or country in which the vehicles are registered.] The department will issue annual permits:

(i) for a 12-month period designated by the department which begins on the first day of a calendar month and expires on the last day of the last calendar month in that annual registration period; and

(ii) to each vehicle or combination of vehicles for the registration fee prescribed by weight classification in Transportation Code, §502.253 and §502.255.

[(B) The department will not issue annual permits for the importation of citrus fruit into Texas from a foreign country except for foreign export or processing for foreign export.]

(B) [(C)] The following exemptions apply to vehicles displaying annual permits.

[(i)] Currently registered foreign semitrailers having a gross weight in excess of 6,000 pounds used or to be used in combination with commercial motor vehicles or truck tractors having a gross vehicle weight in excess of 10,000 pounds are exempted from the requirements to pay the token fee and display the associated distinguishing license plate provided for in Transportation Code, §502.255. An annual permit is required for the power unit only. For vehicles registered in combination, the combined gross weight may not be less than 18,000 pounds.

[(ii) Vehicles registered with annual permits are not subject to the optional county registration fee under Transportation Code, §502.401; the optional county fee for transportation projects under Transportation Code, §502.402; or the optional registration fee for child safety under Transportation Code, §502.403.]

(C) Upon approval of an application, the department will issue one license plate for a trailer, semitrailer, or foreign commercial motor vehicle as defined in Transportation Code, §648.001(4). The license plate issued to a truck-tractor shall be installed on the front of the truck-tractor. For other types of vehicles, the license plate issued shall displayed as required by §217.27(b) of this title (relating to Vehicle Registration Insignia).

(3) 72-hour permits and 144-hour permits in accordance with Transportation Code, §502.094.

[(A) In accordance with Transportation Code, §502.094, the department will issue a permit valid for 72 hours or 144 hours for the movement of commercial motor vehicles, trailers, semitrailers, and motor buses owned by residents of the United States, Mexico, or Canada.]

[(B) A 72-hour permit or a 144-hour permit is valid for the period of time stated on the permit beginning with the effective day and time as shown on the permit registration receipt.]

[(C) Vehicles displaying 72-hour permits or 144-hour permits are subject to vehicle safety inspection in accordance with Transportation Code, §548.051, except for:]

[(i) vehicles currently registered in another state of the United States, Mexico, or Canada; and]

[(ii) mobile drilling and servicing equipment used in the production of gas, crude petroleum, or oil, including, but not limited to, mobile cranes and hoisting equipment, mobile lift equipment, forklifts, and tugs.]

[(D) The department will not issue a 72-hour permit or a 144-hour permit to a commercial motor vehicle, trailer, semitrailer, or motor bus apprehended for violation of Texas registration laws. Apprehended vehicles must be registered under Transportation Code, Chapter 502.]

[(4) Temporary agricultural permits.]

[(A) Transportation Code, §502.092 authorizes the department to issue a 30-day temporary nonresident registration permit

to a nonresident for any truck, truck tractor, trailer, or semitrailer to be used in the movement of all agriculture products produced in Texas:]

[(i) from the place of production to market, storage, or railhead not more than 75 miles from the place of production; or]

[(ii) to be used in the movement of machinery used to harvest Texas-produced agricultural products.]

[(B) The department will issue a 30-day temporary nonresident registration permit to a nonresident for any truck, truck tractor, trailer, or semitrailer used to move or harvest farm products, produced outside of Texas, but:]

[(i) marketed or processed in Texas; or]

[(ii) moved to points in Texas for shipment from the point of entry into Texas to market, storage, processing plant, railhead or seaport not more than 80 miles from such point of entry into Texas.]

[(C) The statutory fee for temporary agricultural permits is one-twelfth of the annual Texas registration fee prescribed for the vehicle for which the permit is issued.]

[(D) The department will issue a temporary agricultural permit only when the vehicle is legally registered in the nonresident's home state or country for the current registration year.]

[(E) The number of temporary agricultural permits is limited to three permits per nonresident owner during any one vehicle registration year.]

[(F) Temporary agricultural permits may not be issued to farm licensed trailers or semitrailers.]

(c) License plate categories. The department will issue the following categories of special registration license plates.

(1) [(5)] One-trip license plates in accordance with [permits] Transportation Code, §502.095. [authorizes the department to temporarily register any unladen vehicle upon application to provide for the movement of the vehicle for one trip, when the vehicle is subject to Texas registration and not authorized to travel on the public roadways for lack of registration or lack of registration reciprocity.]

[(A) Upon receipt of the $5 fee, registration will be valid for one trip only between the points of origin and destination and intermediate points as may be set forth in the application and registration receipt.]

[(B) The department will issue a one-trip permit to a bus which is not covered by a reciprocity agreement with the state or country in which it is registered to allow for the transit of the vehicle only. The vehicle should not be used for the transportation of any passenger or property, for compensation or otherwise, unless such bus is operating under charter from another state or country.]

[(C) A one-trip permit is valid for a period up to 15 days from the effective date of registration.]

(A) [(D)] A one-trip license plate [permit] may not be issued for a trip which both originates and terminates outside Texas.

(B) [((E)] A laden motor vehicle or a laden commercial vehicle cannot display a one-trip license plate [permit]. If the vehicle is unregistered, it must operate with a 72-hour or 144-hour permit.

(C) A one-trip license plate must be displayed as required by §217.27(b) of this title (relating to Vehicle Registration Insignia).

(2) [(6)] 30-day license plates in accordance with [temporary registration permits] Transportation Code, §502.095 [authorizes the department to issue a temporary registration permit valid for 30 days for a $25 fee].

(A) A vehicle operated on a 30-day license plate [temporary permit] is not restricted to a specific route. The 30-day license plate [permit] is available for:

(i) [(A)] passenger vehicles;

[(B)] [motorcycles;]

(ii) [(C)] private buses;

(iii) [(D)] trailers and semitrailers with a gross weight not exceeding 10,000 pounds;

(iv) [(E)] light commercial vehicles not exceeding a gross weight of 10,000 pounds; and

(v) [(F)] a commercial vehicle exceeding 10,000 pounds, provided the vehicle is operated unladen.

(B) A 30-day license plate must be displayed as required by §217.27(b) of this title (relating to Vehicle Registration Insignia).

(d) [(c)] Application process.

(1) Procedure. An owner who wishes to apply for a special [temporary] registration permit or special registration license plate for a vehicle which is otherwise required to be registered in accordance with this subchapter, must do so on a form prescribed by the department.

(2) Form requirements. The application form will at a minimum require:

(A) the signature of the owner;

(B) the name and complete address of the applicant; and

(C) the vehicle description.

(3) Fees and documentation. The application must be accompanied by:

(A) statutorily prescribed fees. [, unless the applicant is exempt from fees under Transportation Code, §501.0236 and provides the letter specified in §217.16(c) of this title (relating to Application for Title When Dealer Goes Out of Business);]

(B) evidence of financial responsibility:

(i) as required by Transportation Code, Chapter 502, Subchapter B, provided that all policies written for the operation of motor vehicles must be issued by an insurance company or surety company authorized to write motor vehicle liability insurance in Texas; or

(ii) if the applicant is a motor carrier as defined by §218.2 of this title (relating to Definitions), indicating that the vehicle is registered in compliance with Chapter 218, Subchapter B of this title (relating to Motor Carrier Registration); and

(C) any other documents or fees required by law.

(4) Place of application.

(A) All applications for annual permits must be submitted directly to the department for processing and issuance.

(B) Additional weight permits [and temporary agricultural permits] may be obtained by making application with the department through the county tax assessor-collectors' offices.

(C) 72-hour and 144-hour permits, one-trip license plates [permits], and 30-day license plates [temporary registration

~~permits~~] may be obtained by making application either with the department or the county tax assessor-collectors' offices.

(e) [~~(d)~~] Receipt for special registration permit or special registration license plate in lieu of registration. A receipt will be issued for each special registration permit or special registration license plate in lieu of registration to be carried in the vehicle during the time the special registration permit or special registration license plate is valid. [~~A one-trip or 30-day trip permit must be displayed as required by Transportation Code, §502.095(f).~~] If the receipt is lost or destroyed, the owner must obtain a duplicate from the department or from the county office. The fee for the duplicate receipt is the same as the fee required by Transportation Code, §502.058.

(f) [~~(e)~~] Transfer of special registration [~~temporary~~] permits or special registration license plates.

(1) Special registration [~~Temporary~~] permits and special registration license plates are non-transferable between vehicles and/or owners.

(2) If the owner of a vehicle displaying a special registration [~~temporary~~] permit or a special registration license plate disposes of the vehicle during the time the permit or license plate is valid, the permit or license plate must be returned to the county tax assessor-collector office or department immediately.

(g) [~~(f)~~] Replacement permits. Vehicle owners displaying annual permits may obtain replacement permits if an annual permit is lost, stolen, or mutilated.

(1) The fee for a replacement annual permit is the same as for a replacement number plate, symbol, tab, or other device as provided by Transportation Code, §502.060.

(2) The owner shall apply directly to the department in writing for the issuance of a replacement annual permit. Such request should include a copy of the registration receipt and replacement fee.

(h) [~~(g)~~] Agreements with other jurisdictions. In accordance with Transportation Code, §502.091, and Chapter 648, the executive director of the department may enter into a written agreement with an authorized officer of a state, province, territory, or possession of a foreign country to provide for the exemption from payment of registration fees by nonresidents, if residents of this state are granted reciprocal exemptions. The executive director may enter into such agreement only upon:

(1) the approval of the governor; and

(2) making a determination that the economic benefits to the state outweigh all other factors considered.

(i) [~~(h)~~] Border commercial zones.

(1) Texas registration required. A vehicle located in a border commercial zone must display a valid Texas registration if the vehicle is owned by a person who:

(A) owns a leasing facility or a leasing terminal located in Texas; and

(B) leases the vehicle to a foreign motor carrier.

(2) Exemption for trips of short duration. Except as provided by paragraph (1) of this subsection, a foreign commercial vehicle operating in accordance with Transportation Code, Chapter 648 is exempt from the display of a temporary registration permit if:

(A) the vehicle is engaged solely in the transportation of cargo across the border into or from a border commercial zone;

(B) for each load of cargo transported the vehicle remains in this state for:

(i) not more than 24 hours; or

(ii) not more than 48 hours, if:

(I) the vehicle is unable to leave this state within 24 hours because of circumstances beyond the control of the motor carrier operating the vehicle; and

(II) all financial responsibility requirements applying to this vehicle are satisfied;

(C) the vehicle is registered and licensed as required by the country in which the person that owns the vehicle is domiciled or is a citizen as evidenced by a valid metal license plate attached to the front or rear exterior of the vehicle; and

(D) the country in which the person who owns the vehicle is domiciled or is a citizen provides a reciprocal exemption for commercial motor vehicles owned by residents of Texas.

(3) Exemption due to reciprocity agreement. Except as provided by paragraph (1) of this subsection, a foreign commercial motor vehicle in a border commercial zone in this state is exempt from the requirement of obtaining a Texas registration if the vehicle is currently registered in another state of the United States or a province of Canada with which this state has a reciprocity agreement that exempts a vehicle that is owned by a resident of this state and that is currently registered in this state from registration in the other state or province.

§217.41. Disabled Person License Plates and Disabled Parking Placards.

(a) Purpose. Transportation Code, Chapters 504 and 681, charge the department with the responsibility for issuing specially designed license plates and disabled parking placards for disabled persons. For the department to perform these duties efficiently and effectively, this section prescribes the policies and procedures for the application, issuance, and renewal of disabled person license plates and disabled parking placards.

(b) Issuance.

(1) For purposes of this section, "disabled person" means a person eligible for issuance of a license plate bearing the International Symbol of Access under Transportation Code §504.201, including a qualifying disabled veteran under §504.202(b-1).

(2) Disabled person license plates.

(A) Eligibility. In accordance with Transportation Code §504.201 and §504.202(b-1) and (b-2), the department will issue specially designed license plates displaying the International Symbol of Access to permanently disabled persons or their transporters instead of general issue [~~regular motor vehicle~~] license plates. As satisfactory proof of eligibility, an organization that transports disabled veterans who would qualify for license plates issued under Transportation Code §504.202(b-1) must provide a written statement from the veteran's county service officer of the county in which a vehicle described by Transportation Code §504.202(c) is registered or by the Department of Veterans Affairs that:

(i) the vehicle is used exclusively to transport veterans of the United States armed forces who have suffered, as a result of military service, a service-connected disability;

(ii) the vehicle regularly transports veterans who are eligible to receive license plates under Subsection (b-1); and

(iii) the veterans are not charged for the transportation.

(B) Specialty license plates. The department will issue disabled person specialty license plates displaying the International Symbol of Access that can accommodate the identifying insignia and that are issued in accordance with §217.43 or §217.45 of this title.

(C) License plate number. Disabled person license plates will bear a license plate number assigned by the department or will bear a personalized license plate number issued in accordance with §217.43 or §217.45 of this title.

(3) Windshield disabled parking placards.

(A) Issuance. The department will issue removable windshield disabled parking placards to temporarily or permanently disabled persons and to the transporters of permanently disabled persons, as provided under Transportation Code §§504.201, 504.202 (b-1) and (b-2), and 681.004.

(B) Display. A person who has been issued a windshield disabled parking placard shall hang the placard from a vehicle's rearview mirror when the vehicle is parked in a disabled person parking space or shall display the placard on the center portion of the dashboard if the vehicle does not have a rearview mirror.

(c) Renewal of disabled person license plates. Disabled person license plates are valid for a period of 12 months from the date of issuance and are renewable as specified in §§217.28, 217.43, and 217.45 of this title.

(d) Replacement.

(1) License plates. If a disabled person metal license plate is lost, stolen, or mutilated, the owner may obtain a replacement metal license plate by applying with a county tax assessor-collector.

(A) Accompanying documentation. To replace disabled person metal license plates, the owner must present the current year's registration receipt and personal identification acceptable to the county tax assessor-collector.

(B) Absence of accompanying documentation. If the current year's registration receipt is not available and the county tax assessor-collector cannot verify that the disabled person metal license plates were issued to the owner, the owner must reapply in accordance with this section.

(2) Disabled parking placards. If a disabled parking placard becomes lost, stolen, or mutilated, the owner may obtain a new disabled parking placard in accordance with this section.

(e) Transfer of disabled person license plates and disabled parking placards.

(1) License plates.

(A) Transfer between persons. Disabled person license plates may not be transferred between persons. An owner who sells or trades a vehicle to which disabled person license plates have been issued shall remove the disabled person license plates from the vehicle. The owner shall return the license plates to the department and shall obtain appropriate replacement license plates to place on the vehicle prior to any transfer of ownership.

(B) Transfer between vehicles. Disabled person license plates may be transferred between vehicles if the county tax assessor-collector or the department can verify the plate ownership and the owner of the vehicle is a disabled person or the vehicle is used to transport a disabled person.

(i) Plate ownership verification may include:

(I) a Registration and Title System (RTS) inquiry;

(II) a copy of the department application for disabled person license plates; or

(III) the owner's current registration receipt.

(ii) An owner who sells or trades a vehicle with disabled person license plates must remove the plates from the vehicle.

(iii) The department will provide a form that persons may use to facilitate a transfer of disabled person license plates between vehicles.

(2) Disabled parking placards.

(A) Transfer between vehicles. Disabled parking placards may be displayed in any vehicle driven by the disabled person or in which the disabled person is a passenger.

(B) Transfer between persons. Disabled parking placards may not be transferred between persons.

(f) Seizure and revocation of disabled parking placard.

(1) If a law enforcement officer seizes and destroys a disabled parking placard under Transportation Code §681.012, the officer shall notify the department by email.

(2) The person to whom the seized disabled parking placard was issued may apply for a new disabled parking placard by submitting an application to the county tax assessor-collector of the county in which the person with the disability resides or in which the applicant is seeking medical treatment.

§217.43. Military Specialty License Plates.

(a) Purpose and Scope. Transportation Code, Chapter 504 authorizes the department to issue military specialty license plates. This section prescribes the policies and procedures for the application, issuance, and renewal of military specialty license plates.

(b) Classification and fees. The department will issue specialty license plates for the military and charge fees as authorized by Transportation Code, §504.202 and Chapter 504, Subchapter D.

(c) Application. Applications for military specialty license plates must be made to the department and include evidence of eligibility. The evidence of eligibility may include, but is not limited to:

(1) an official document issued by a governmental entity;

(2) a letter issued by a governmental entity on that agency's letterhead;

(3) discharge papers;

(4) a death certificate; or

(5) an identification card issued by any branch of the military under the jurisdiction of the United States Department of Defense or the United States Department of Homeland Security indicating that the member is retired.

(d) Period. Military specialty license plates shall be valid for 12 months from the month of issuance or for a prorated period of at least 12 months coinciding with the expiration of registration and may be replaced in accordance with §217.32 of this title (relating to Replacement of License Plates, Symbols, Tabs, and Other Devices).

(e) Assignment and Transfer. Military license plates may not be assigned and may only be transferred to another vehicle owned by the same vehicle owner.

(f) Applicability. Section 217.45 of this title (relating to Specialty License Plates, Symbols, Tabs, and Other Devices) applies to military license plates, symbols, tabs, or other devices as to:

(1) what is considered one set of license plates per vehicle as determined by vehicle type;

(2) issuance of validation tabs and insignia;

(3) stolen or replaced license plates;

(4) payment of other applicable fees;

(5) personalization, except that Congressional Medal of Honor license plates may not be personalized;

(6) renewal, except that the owner of a vehicle with Congressional Medal of Honor license plates must return the documentation and specialty license plate fee, if any, directly to the department;

(7) refunds; and

(8) expiration.

§217.45. Specialty License Plates, Symbols, Tabs, and Other Devices.

(a) Purpose and Scope. Transportation Code, Chapters 504, 551, and 551A charge the department with providing specialty license plates, symbols, tabs, and other devices. For the department to perform these duties efficiently and effectively, this section prescribes the policies and procedures for the application, issuance, and renewal of specialty license plates, symbols, tabs, and other devices, through the county tax assessor-collectors, and establishes application fees, expiration dates, and registration periods for certain specialty license plates. This section does not apply to military license plates except as provided by §217.43 of this title (relating to Military Specialty License Plates).

(b) Initial application for specialty license plates, symbols, tabs, or other devices.

(1) Application Process.

(A) Procedure. An owner of a vehicle registered as specified in this subchapter who wishes to apply for a specialty license plate, symbol, tab, or other device must do so on a form prescribed by the director.

(B) Form requirements. The application form shall at a minimum require the name and complete address of the applicant.

(2) Fees and Documentation.

(A) The application must be accompanied by the prescribed registration fee, unless exempted by statute.

(B) The application must be accompanied by the statutorily prescribed specialty license plate fee. [~~If a registration period is greater than 12 months, the expiration date of a specialty license plate, symbol, tab, or other device will be aligned with the registration period and the specialty plate fee will be adjusted to yield the appropriate fee. If the statutory annual fee for a specialty license plate is $5 or less, it will not be prorated.~~]

(C) Specialty license plate fees will not be refunded after an application is submitted and the department has approved issuance of the license plate.

(D) The application must be accompanied by prescribed local fees or other fees that are collected in conjunction with registering a vehicle, with the exception of vehicles bearing license plates that are exempt by statute from these fees.

(E) The application must include evidence of eligibility for any specialty license plates. The evidence of eligibility may include, but is not limited to:

(i) an official document issued by a governmental entity; or

(ii) a letter issued by a governmental entity on that agency's letterhead.

(F) Initial applications for license plates for display on Exhibition Vehicles must include a photograph of the completed vehicle.

(3) Place of application. Applications for specialty license plates may be made directly to the county tax assessor-collector of the county in which the owner resides or a county tax assessor-collector who is willing to accept the application, except that applications for the following license plates must be made directly to the department:

(A) County Judge;

(B) Federal Administrative Law Judge;

(C) State Judge;

(D) State Official;

(E) U.S. Congress--House;

(F) U.S. Congress--Senate; and

(G) U.S. Judge.

(4) Gift plates.

(A) A person may purchase general distribution specialty license plates as a gift for another person if the purchaser submits an application for the specialty license plates that provides:

(i) the name and address of the person who will receive the license plates; and

(ii) the vehicle identification number of the vehicle on which the license plates will be displayed.

(B) To be valid for use on a motor vehicle, the recipient of the license plates must file an application with the county tax assessor-collector and pay the statutorily required registration fees in the amount as provided by Transportation Code, Chapter 502 and this subchapter.

(c) Initial issuance of specialty license plates, symbols, tabs, or other devices.

(1) Issuance. On receipt of a completed initial application for registration, accompanied by the prescribed documentation and fees, the department will issue specialty license plates, symbols, tabs, or other devices to be displayed on the vehicle for which the license plates, symbols, tabs, or other devices were issued for the current registration period. If the vehicle for which the specialty license plates, symbols, tabs, or other devices are issued is currently registered, the owner must surrender the license plates currently displayed on the vehicle, along with the corresponding license receipt, before the specialty license plates may be issued.

(2) Classic Motor Vehicles, Classic Travel Trailers, Custom Vehicles, Street Rods, and Exhibition Vehicles.

(A) License plates. Texas license plates that were issued the same year as the model year of a Classic Motor Vehicle, Travel Trailer, Street Rod, or Exhibition Vehicle may be displayed on that vehicle under Transportation Code, §504.501 and §504.502, unless:

(i) the license plate's original use was restricted by statute to another vehicle type;

(ii) the license plate is a qualifying plate type that originally required the owner to meet one or more eligibility requirements, except for a plate issued under Transportation Code, §504.202; or

(iii) the license plate number [~~alpha numeric pattern~~] is already in use on another vehicle.

(B) Validation stickers and tabs. The department will issue validation stickers and tabs for display on license plates that are displayed as provided by subparagraph (A) of this paragraph.

(3) Number of license plates issued.

(A) Two license plates. Unless otherwise listed in subparagraph (B) of this paragraph, two specialty license plates, each bearing the same license plate number, will be issued per vehicle.

(B) One license plate. One license plate will be issued per vehicle for all motorcycles and for the following specialty license plates:

(i) Antique Vehicle (includes Antique Auto, Antique Truck, Antique Motorcycle, and Antique Bus);

(ii) Classic Travel Trailer;

(iii) Rental Trailer;

(iv) Travel Trailer;

(v) Cotton Vehicle;

(vi) Disaster Relief;

(vii) Forestry Vehicle;

(viii) Golf Cart;

(ix) Log Loader;

(x) Military Vehicle;

(xi) Package Delivery Vehicle;

(xii) Fertilizer; and

(xiii) Off-highway Vehicle.

(C) Registration number. The identification number assigned by the military may be approved as the registration number instead of displaying Military Vehicle license plates on a former military vehicle.

(4) Assignment of license plates.

(A) Title holder. Unless otherwise exempted by law or this section, the vehicle on which specialty license plates, symbols, tabs, or other devices is to be displayed shall be titled in the name of the person to whom the specialty license plates, symbols, tabs, or other devices is assigned, or a title application shall be filed in that person's name at the time the specialty license plates, symbols, tabs, or other devices are issued.

(B) Non-owner vehicle. If the vehicle is titled in a name other than that of the applicant, the applicant must provide evidence of having the legal right of possession and control of the vehicle.

(C) Leased vehicle. In the case of a leased vehicle, the applicant must provide a copy of the lease agreement verifying that the applicant currently leases the vehicle.

(5) Classification of neighborhood electric vehicles. The registration classification of a neighborhood electric vehicle, as defined by §217.3(3) of this title (relating to Motor Vehicle Titles) will be determined by whether it is designed as a 4-wheeled truck or a 4-wheeled passenger vehicle.

(6) Number of vehicles. An owner may obtain specialty license plates, symbols, tabs, or other devices for an unlimited number of vehicles, unless the statute limits the number of vehicles for which the specialty license plate may be issued.

(7) Personalized license plate numbers.

(A) Issuance. The department will issue a personalized license plate number subject to the exceptions set forth in this paragraph.

(B) Character limit. A personalized license plate number may contain no more than six alpha or numeric characters or a combination of characters. Depending upon the specialty license plate design and vehicle class, the number of characters may vary. Spaces, hyphens, periods, hearts, stars, the International Symbol of Access, or silhouettes of the state of Texas may be used in conjunction with the license plate number.

(C) Personalized license plates not approved. A personalized license plate number will not be approved by the executive director if the license plate number [~~alpha-numeric pattern~~]:

(i) conflicts with the department's current or proposed general issue [~~regular~~] license plate numbering system;

(ii) would violate §217.27 of this title (relating to Vehicle Registration Insignia), as determined by the executive director; or

(iii) is currently issued to another owner.

(D) Classifications of vehicles eligible for personalized license plates. Unless otherwise listed in subparagraph (E) of this paragraph, personalized license plates are available for all classifications of vehicles.

(E) Categories of license plates for which personalized license plates are not available. Personalized license plate numbers are not available for display on the following specialty license plates:

(i) Amateur Radio (other than the official call letters of the vehicle owner);

(ii) Antique Motorcycle;

(iii) Antique Vehicle (includes Antique Auto, Antique Truck, and Antique Bus);

(iv) Apportioned;

(v) Cotton Vehicle;

(vi) Disaster Relief;

(vii) Farm Trailer (except Go Texan II);

(viii) Farm Truck (except Go Texan II);

(ix) Farm Truck Tractor (except Go Texan II);

(x) Fertilizer;

(xi) Forestry Vehicle;

(xii) Log Loader;

(xiii) Machinery;

(xiv) Permit;

(xv) Rental Trailer;

(xvi) Soil Conservation;

(xvii) Texas Guard;

(xviii) Golf Cart;

(xix) Package Delivery Vehicle; and

(xx) Off-highway Vehicle.

(F) Fee. Unless specified by statute, a personalized license plate fee of $40 will be charged in addition to any prescribed specialty license plate fee.

(G) Priority. Once a personalized license plate number has been assigned to an applicant, the owner shall have priority to that number for succeeding years if a timely renewal application is submitted to the county tax assessor-collector each year in accordance with subsection (d) of this section.

(d) Specialty license plate renewal.

(1) Renewal deadline. If a personalized license plate is not renewed within 60 days after its expiration date, a subsequent renewal application will be treated as an application for new personalized license plates.

(2) Length of validation. Except as provided by Transportation Code, §§504.401, 504.4061, or 504.502, all specialty license plates, symbols, tabs, or other devices shall be valid for 12 months from the month of issuance or for a prorated period of at least 12 months coinciding with the expiration of registration.

(3) Renewal.

(A) Renewal notice. Approximately 60 days before the expiration date of a specialty license plate, symbol, tab, or other device, the department will send each owner a renewal notice that includes the amount of the specialty license plate fee and the registration fee.

(B) Return of notice. The owner must return the fee and any prescribed documentation to the tax assessor-collector of the county in which the owner resides or a county tax assessor-collector who is willing to accept the application, except that the owner of a vehicle with one of the following license plates must return the documentation, and specialty license plate fee, if applicable, directly to the department and submit the registration fee to a county tax assessor-collector:

(i) County Judge;

(ii) Federal Administrative Law Judge;

(iii) State Judge;

(iv) State Official;

(v) U.S. Congress--House;

(vi) U.S. Congress--Senate; and

(vii) U.S. Judge.

(C) Expired license plate numbers. The department will retain a specialty license plate number for 60 days after the expiration date of the license plates if the license plates are not renewed on or before their expiration date. After 60 days the number may be reissued to a new applicant. All specialty license plate renewals received after the expiration of the 60 days will be treated as new applications.

(D) Issuance of validation insignia. On receipt of a completed license plate renewal application and prescribed documentation, the department will issue registration validation insignia as specified in §217.27 unless this section or other law requires the issuance of new license plates to the owner.

(E) Lost or destroyed renewal notices. If a renewal notice is lost, destroyed, or not received by the vehicle owner, the specialty license plates, symbol, tab, or other device may be renewed if the owner provides acceptable personal identification along with the appropriate fees and documentation to the tax assessor-collector of the county in which the owner resides or a county tax assessor-collector who is willing to accept the application. Failure to receive the notice does not relieve the owner of the responsibility to renew the vehicle's registration.

(e) Transfer of specialty license plates.

(1) Transfer between vehicles.

(A) Transferable between vehicles. The owner of a vehicle with specialty license plates, symbols, tabs, or other devices may transfer the specialty license plates between vehicles by filing an application through the county tax assessor-collector in which the owner resides or a county tax assessor-collector who is willing to accept the application, if the vehicle to which the license plates are transferred:

(i) is titled or leased in the owner's name; and

(ii) meets the vehicle classification requirements for that particular specialty license plate, symbol, tab, or other device.

(B) Non-transferable between vehicles. The following specialty license plates, symbols, tabs, or other devices are non-transferable between vehicles:

(i) Antique Vehicle license plates (includes Antique Auto, Antique Truck, and Antique Bus), Antique Motorcycle license plates, and Antique tabs;

(ii) Classic Auto, Classic Truck, Classic Motorcycle, Classic Travel Trailer, Street Rod, and Custom Vehicle license plates;

(iii) Forestry Vehicle license plates;

(iv) Log Loader license plates;

(v) Golf Cart license plates;

(vi) Package Delivery Vehicle license plates; and

(vii) Off-highway Vehicle license plates.

(C) New specialty license plates. If the department creates a new specialty license plate under Transportation Code, §504.801, the department will specify at the time of creation whether the license plate may be transferred between vehicles.

(2) Transfer between owners.

(A) Non-transferable between owners. Specialty license plates, symbols, tabs, or other devices issued under Transportation Code, Chapter 504, Subchapters C, E, and F are not transferable from one person to another except as specifically permitted by statute.

(B) New specialty license plates. If the department creates a new specialty license plate under Transportation Code, §504.801, the department will specify at the time of creation whether the license plate may be transferred between owners.

(3) Simultaneous transfer between owners and vehicles. Specialty license plates, symbols, tabs, or other devices are transferable between owners and vehicles simultaneously only if the owners and vehicles meet all the requirements in both paragraphs (1) and (2) of this subsection.

(f) Replacement.

(1) Application. When specialty license plates, symbols, tabs, or other devices are lost, stolen, or mutilated, the owner shall apply directly to a county tax assessor-collector for the issuance of replacements.

(2) Temporary registration insignia. If the specialty license plate, symbol, tab, or other device is lost, destroyed, or mutilated to such an extent that it is unusable, and if issuance of a replacement license plate would require that it be remanufactured, the owner must pay the statutory replacement fee, and the department will issue a temporary tag for interim use. The owner's new specialty license plate number will be shown on the temporary tag unless it is a personalized license plate, in which case the same personalized license plate number will be shown.

(3) Stolen specialty license plates.

(A) The department or county tax assessor-collector will not approve the issuance of replacement license plates with the same personalized license plate number if the department's records indicate either the vehicle displaying the personalized license plates or the license plates are reported as stolen to law enforcement. The owner will be directed to contact the department for another personalized license plate choice.

(B) The owner may select a different personalized number to be issued at no charge with the same expiration as the stolen specialty license plate. On recovery of the stolen vehicle or license plates, the department will issue, at the owner's or applicant's request, replacement license plates, bearing the same personalized number as those that were stolen.

(g) License plates created after January 1, 1999. In accordance with Transportation Code, §504.702, the department will begin to issue specialty license plates authorized by a law enacted after January 1, 1999, only if the sponsoring entity for that license plate submits the following items before the fifth anniversary of the effective date of the law.

(1) The sponsoring entity must submit a written application. The application must be on a form approved by the director and include, at a minimum:

(A) the name of the license plate;

(B) the name and address of the sponsoring entity;

(C) the name and telephone number of a person authorized to act for the sponsoring entity; and

(D) the deposit.

(2) A sponsoring entity is not an agent of the department and does not act for the department in any matter, and the department does not assume any responsibility for fees or applications collected by a sponsoring entity.

(h) Assignment procedures for state, federal, and county officials.

(1) State Officials. State Official license plates contain the distinguishing prefix "SO." Members of the state legislature may be issued up to three sets of State Official specialty license plates with the distinguishing prefix "SO," or up to three sets of State Official specialty license plates that depict the state capitol, and do not display the distinguishing prefix "SO." An application by a member of the state legislature, for a State Official specialty license plate, must specify the same specialty license plate design for each applicable vehicle. State Official license plates are assigned in the following order:

(A) Governor;

(B) Lieutenant Governor;

(C) Speaker of the House;

(D) Attorney General;

(E) Comptroller;

(F) Land Commissioner;

(G) Agriculture Commissioner;

(H) Secretary of State;

(I) Railroad Commission;

(J) Supreme Court Chief Justice followed by the remaining justices based on their seniority;

(K) Criminal Court of Appeals Presiding Judge followed by the remaining judges based on their seniority;

(L) Members of the State Legislature, with Senators assigned in order of district number followed by Representatives assigned in order of district number, except that in the event of redistricting, license plates will be reassigned; and

(M) Board of Education Presiding Officer followed by the remaining members assigned in district number order, except that in the event of redistricting, license plates will be reassigned.

(2) Members of the U.S. Congress.

(A) U.S. Senate license plates contain the prefix "Senate" and are assigned by seniority; and

(B) U.S. House license plates contain the prefix "House" and are assigned in order of district number, except that in the event of redistricting, license plates will be reassigned.

(3) Federal Judge.

(A) Federal Judge license plates contain the prefix "USA" and are assigned on a seniority basis within each court in the following order:

(i) Judges of the Fifth Circuit Court of Appeals;

(ii) Judges of the United States District Courts;

(iii) United States Bankruptcy Judges; and

(iv) United States Magistrates.

(B) Federal Administrative Law Judge license plates contain the prefix "US" and are assigned in the order in which applications are received.

(C) A federal judge who retired on or before August 31, 2003, and who held license plates expiring in March 2004 may continue to receive federal judge license plates. A federal judge who retired after August 31, 2003, is not eligible for U.S. Judge license plates.

(4) State Judge.

(A) State Judge license plates contain the prefix "TX" and are assigned sequentially in the following order:

(i) Appellate District Courts;

(ii) Presiding Judges of Administrative Regions;

(iii) Judicial District Courts;

(iv) Criminal District Courts; and

(v) Family District Courts and County Statutory Courts.

(B) A particular alpha-numeric combination will always be assigned to a judge of the same court to which it was originally assigned.

(C) A state judge who retired on or before August 31, 2003, and who held license plates expiring in March 2004 may continue to receive state judge plates. A state judge who retired after August 31, 2003, is not eligible for State Judge license plates.

(5) County Judge license plates contain the prefix "CJ" and are assigned by county number.

(6) In the event of redistricting or other license plate reallocation, the department may allow a state official to retain that official's plate number if the official has had the number for five or more consecutive years.

(i) Development of new specialty license plates.

(1) Procedure. The following procedure governs the process of authorizing new specialty license plates under Transportation Code, §504.801, whether the new license plate originated as a result of an application or as a department initiative.

(2) Applications for the creation of new specialty license plates. An applicant for the creation of a new specialty license plate, other than a vendor specialty plate under §217.52 of this title (relating to Marketing of Specialty License Plates through a Private Vendor), must submit a written application on a form approved by the executive director. The application must include:

(A) the applicant's name, address, telephone number, and other identifying information as directed on the form;

(B) certification on Internal Revenue Service letterhead stating that the applicant is a not-for-profit entity;

(C) a draft design of the specialty license plate;

(D) projected sales of the license plate, including an explanation of how the projected figure was established;

(E) a marketing plan for the license plate, including a description of the target market;

(F) a licensing agreement from the appropriate third party for any intellectual property design or design element;

(G) a letter from the executive director of the sponsoring state agency stating that the agency agrees to receive and distribute revenue from the sale of the specialty license plate and that the use of the funds will not violate a statute or constitutional provision; and

(H) other information necessary for the board to reach a decision regarding approval of the requested specialty license plate.

(3) Review process. The board:

(A) will not consider incomplete applications;

(B) may request additional information from an applicant if necessary for a decision; and

(C) will consider specialty license plate applications that are restricted by law to certain individuals or groups of individuals (qualifying license plates) using the same procedures as applications submitted for license plates that are available to everyone (non-qualifying license plates).

(4) Request for additional information. If the board determines that additional information is needed, the applicant must return the requested information not later than the requested due date. If the additional information is not received by that date, the board will return the application as incomplete unless the board:

(A) determines that the additional requested information is not critical for consideration and approval of the application; and

(B) approves the application, pending receipt of the additional information by a specified due date.

(5) Board decision. The board's decision will be based on:

(A) compliance with Transportation Code, §504.801;

(B) the proposed license plate design, including:

(i) whether the design appears to meet the legibility and reflectivity standards established by the department;

(ii) whether the design meets the standards established by the department for uniqueness;

(iii) other information provided during the application process;

(iv) the criteria designated in §217.27 as applied to the design; and

(v) whether a design is similar enough to an existing plate design that it may compete with the existing license plate sales; and

(C) the applicant's ability to comply with Transportation Code, §504.702 relating to the required deposit or application that must be provided before the manufacture of a new specialty license plate.

(6) Public comment on proposed design. All proposed license plate designs will be considered by the board as an agenda item at a regularly or specially called open meeting. Notice of consideration of proposed license plate designs will be posted in accordance with Office of the Secretary of State meeting notice requirements. Notice of each license plate design will be posted on the department's Internet website to receive public comment at least 25 days in advance of the meeting at which it will be considered. The department will notify all other specialty license plate organizations and the sponsoring agencies who administer specialty license plates issued in accordance with Transportation Code, Chapter 504, Subchapter G, of the posting. A comment on the proposed design can be submitted in writing through the mechanism provided on the department's Internet website for submission of comments. Written comments are welcome and must be received by the department at least 10 days in advance of the meeting. Public comment will be received at the board's meeting.

(7) Final approval.

(A) Approval. The board will approve or disapprove the specialty license plate application based on all of the information provided pursuant to this subchapter at an open meeting.

(B) Application not approved. If the application is not approved under subparagraph (A) of this paragraph, the applicant may submit a new application and supporting documentation for the design to be considered again by the board if:

(i) the applicant has additional, required documentation; or

(ii) the design has been altered to an acceptable degree.

(8) Issuance of specialty license plates.

(A) If the specialty license plate is approved, the applicant must comply with Transportation Code, §504.702 before any further processing of the license plate.

(B) Approval of the license plate does not guarantee that the submitted draft license plate design will be used. The board has final approval authority of all specialty license plate designs and may adjust or reconfigure the submitted draft design to comply with the format or license plate specifications.

(C) If the board, in consultation with the applicant, adjusts or reconfigures the design, the adjusted or reconfigured design will not be posted on the department's website for additional comments.

(9) Redesign of specialty license plate.

(A) Upon receipt of a written request from the applicant, the department will allow redesign of a specialty license plate.

(B) A request for a redesign must meet all application requirements and proceed through the approval process of a new specialty license plate as required by this subsection.

(C) An approved license plate redesign does not require the deposit required by Transportation Code, §504.702, but the applicant must pay a redesign cost to cover administrative expenses.

(j) Golf carts.

(1) A county tax assessor-collector may issue golf cart license plates as long as the requirements under Transportation Code, §551.403 or §551.404 are met.

(2) A county tax assessor-collector may only issue golf cart license plates to residents or property owners of the issuing county.

(3) A golf cart license plate may not be used as a registration insignia, and a golf cart may not be registered for operation on a public highway.

(4) The license plate fee for a golf cart license plate is $10.

(k) Off-highway vehicle.

(1) A county tax assessor-collector may issue off-highway vehicle license plates as long as the requirements under Transportation Code, §551A.053 or §551A.055 are met.

(2) An off-highway vehicle license plate may not be used as a registration insignia, and an off-highway vehicle may not be registered for operation on a public highway.

(3) The license plate fee for an off-highway vehicle license plate is $10.

(l) Package delivery vehicle.

(1) A county tax assessor-collector may issue package delivery license plates as long as the requirements under Transportation Code, §§551.453, 551.454, and 551.455 are met.

(2) The license plate fee for a package delivery license plate is $25 to be paid on an annual basis.

§217.46. Commercial Vehicle Registration.

(a) Eligibility. A motor vehicle is required to be registered as a commercial motor vehicle if it meets the definition of a commercial motor vehicle under Transportation Code, §502.001(7). [~~A motor vehicle, other than a motorcycle or moped, designed or used primarily for the transportation of property, including any passenger car that has been reconstructed to be used, and is being used, primarily for delivery purposes, with the exception of a passenger car used in the delivery of the United States mail, must be registered as a commercial vehicle.~~]

(b) Commercial vehicle registration classifications.

(1) Apportioned license plates. Apportioned license plates are issued in lieu of Combination, Motor Bus, or Truck license plates to Texas carriers who proportionally register their fleets in other states, in conformity with §217.56 of this title (relating to Registration Reciprocity Agreements).

(2) City bus license plates. A street or suburban bus shall be registered with license plates bearing the legend "City Bus."

(3) Combination license plates.

(A) Specifications. A truck or truck-tractor with a gross weight in excess of 10,000 pounds used or to be used in combination with a semitrailer having a gross weight in excess of 6,000 pounds, may be registered with combination license plates. Such vehicles must be registered for a gross weight equal to the combined gross weight of all the vehicles in the combination, but not less than 18,000 pounds. Only one combination license plate is required and must be displayed on the front of the truck or truck-tractor. When displaying a combination license plate, a truck or truck-tractor is not restricted to pulling a semitrailer licensed with a Token Trailer license plate and may legally pull semitrailers [~~and full trailers~~] displaying other types of Texas license plates or license plates issued out of state; however, a truck or truck-tractor displaying a combination license plate issued under Transportation Code, §502.255 may only pull a semitrailer issued a license plate from another state to the extent authorized under a registration reciprocity agreement under Transportation Code, §502.091. The following vehicles may not be registered in combination:

(i) trucks or truck-tractors having a gross weight of [~~less than~~] 10,000 pounds or less or trucks or truck-tractors to be used exclusively in combination with semitrailers having gross weights not exceeding 6,000 pounds;

(ii) semitrailers with gross weights of 6,000 pounds or less, or semitrailers that are to be operated exclusively with trucks or truck-tractors having gross weight of [~~less than~~] 10,000 pounds or less;

(iii) trucks or truck-tractors used exclusively in combination with semitrailer-type vehicles displaying Machinery, Permit, or Farm Trailer license plates;

(iv) trucks or truck-tractors used exclusively in combination with travel trailers and manufactured housing;

(v) trucks or truck-tractors to be registered with Farm Truck or Farm Truck Tractor license plates;

(vi) trucks or truck-tractors and semitrailers to be registered with disaster relief license plates;

(vii) trucks or truck-tractors and semitrailers to be registered with Soil Conservation license plates;

(viii) trucks or truck-tractors and semitrailers to be registered with U.S. Government license plates or Exempt license plates issued by the State of Texas; and

(ix) vehicles that are to be issued special registration [~~temporary~~] permits, such as 72-Hour Permits, 144-Hour Permits, or special registration license plates, such as One Trip license plates, [~~Permits,~~] or 30-Day license plates [~~Permits~~] in accordance with Transportation Code, §502.094 and §502.095.

(B) Converted semitrailers. Semitrailers that are converted to [~~full~~] trailers by means of auxiliary axle assemblies will retain their semitrailer status, and such semitrailers are subject to the combination and token trailer registration requirements.

(C) Axle assemblies. Various types of axle assemblies that are specially designed for use in conjunction with other vehicles or combinations of vehicles may be used to increase the load capabilities of such vehicles or combinations.

(i) Auxiliary axle assemblies such as trailer axle converters, jeep axles, and drag axles, which are used in conjunction with truck-tractor and semitrailer combinations, are not required to be registered; however, the additional weight that is acquired by the use of such axle assemblies must be included in the combined gross weight of the combination.

(ii) Ready-mixed concrete trucks that have an auxiliary axle assembly installed for the purpose of increasing a load capacity of such vehicles must be registered for a weight that includes the axle assembly.

(D) Exchange of Combination license plates. Combination license plates shall not be exchanged for another type of registration during the registration year, except that:

(i) if a major permanent reconstruction change occurs, Combination license plates may be exchanged for Truck license plates, provided that a corrected title is applied for;

(ii) if the department initially issues Combination license plates in error, the plates will be exchanged for license plates of the proper classification;

(iii) if the department initially issues Truck or Trailer license plates in error to vehicles that should have been registered in combination, such license plates will be exchanged for Combination and Token Trailer license plates; or

(iv) if a Texas apportioned carrier acquires a combination license power unit, the Combination license plates will be exchanged for Apportioned license plates.

(4) Cotton Vehicle license plates. The department will issue Cotton Vehicle license plates in accordance with Transportation Code, §504.505 and §217.45 of this title (relating to Specialty License Plates, Symbols, Tabs, and Other Devices).

(5) Forestry Vehicle license plates. The department will issue Forestry Vehicle license plates in accordance with Transportation Code, §504.507 and §217.45 of this title.

~~[(6) In Transit license plates. The department may issue an In Transit license plate annually to any person, firm, or corporation engaged in the primary business of transporting and delivering by means of the full mount, saddle mount, tow bar, or any other combination, new vehicles and other vehicles from the manufacturer or any other point of origin to any point of destination within the State. Each new vehicle being transported, delivered, or moved under its own power in accordance with this paragraph must display an In Transit license plate in accordance with Transportation Code, §503.035.]~~

(6) [~~(7)~~] Motor Bus license plates. A motor bus as well as a taxi and other vehicles that transport passengers for compensation or hire, must display Motor Bus license plates when operated outside the limits of a city or town, or adjacent suburb, in which its company is franchised to do business.

(7) [~~(8)~~] Token Trailer license plates.

(A) Qualification. The department will issue Token Trailer license plates for semitrailers that are authorized [~~required~~] to be registered in combination.

(B) Validity. A Token Trailer license plate is valid only when it is displayed on a semitrailer that is being pulled by a truck or a truck-tractor that has been properly registered with Forestry Vehicle (in accordance with Transportation Code, §504.507), Combination (in accordance with Transportation Code, §502.255), or Apportioned (in accordance with Transportation Code, §502.091) license plates for combined gross weights that include the weight of the semitrailer, except as authorized under Transportation Code, Chapters 621 through 623.[~~, unless exempted by Transportation Code, §502.094 and §623.011.~~]

(C) House-moving dollies. House-moving dollies are to be registered with Token Trailer license plates and titled as semitrailers; however, only one such dolly in a combination is required to be registered and titled. The remaining dolly (or dollies) is permitted to operate unregistered, since by the nature of its construction, it is dependent upon another such vehicle in order to function. The pulling unit must display a Combination or Apportioned license plate.

(D) Trailers. [~~Full trailers.~~] The department shall [~~will~~] not issue a Token Trailer license plate for a [~~full~~] trailer.

(8) [~~(9)~~] Tow Truck license plates. A Tow Truck license plate must be obtained for all tow trucks operating and registered in this state. The department will not issue a Tow Truck license plate unless the Texas Department of Licensing and Regulation has issued a permit for the tow truck under Occupations Code, Chapter 2308, Subchapter C.

(c) Application for commercial vehicle registration.

(1) Application form. An applicant shall apply for commercial license plates through the appropriate county tax assessor-collector or the department, as applicable, upon forms prescribed by the director and shall require, at a minimum, the following information:

(A) owner name and complete address;

(B) complete description of vehicle, including empty weight; and

(C) vehicle identification number or serial number.

(2) Empty weight determination.

(A) The weight of a Motor Bus shall be the empty weight plus carrying capacity, in accordance with Transportation Code, §502.055.

(B) The weight of a vehicle cannot be lowered below the weight indicated on a Manufacturer's Certificate of Origin unless a corrected Manufacturer's Certificate of Origin is obtained.

(C) In all cases where the department questions the empty weight of a particular vehicle, the applicant should present a weight certificate from a public weight scale or the Department of Public Safety.

(3) Gross weight.

(A) Determination of Weight. The combined gross weight of vehicles registering for combination license plates shall be determined by the empty weight of the truck or truck-tractor combined with the empty weight of the heaviest semitrailer or semitrailers used or to be used in combination therewith, plus the heaviest net load to be carried on such combination during the motor vehicle registration year, provided that in no case may the combined gross weight be less than 18,000 pounds.

(B) Restrictions. The following restrictions apply to combined gross weights.

(i) After a truck or truck-tractor is registered for a combined gross weight, such weight cannot be lowered at any subsequent date during the registration year. The owner may, however, lower the gross weight when registering the vehicle for the following registration year, provided that the registered combined gross weight is sufficient to cover the heaviest load to be transported during the year and provided that the combined gross weight is not less than 18,000 pounds.

(ii) A combination of vehicles is restricted to a total gross weight not to exceed 80,000 pounds; however, all combinations may not qualify for 80,000 pounds unless such weight can be properly distributed in accordance with axle load limitations, and distance between axles, in accordance with Transportation Code, §621.101 or another section in Transportation Code, Chapters 621 through 623. [§623.011.]

(4) Vehicle identification number or serial number. Ownership may [must] be established by a court order or by securing a bond if no vehicle identification number or serial number can be identified. Once ownership has been established, the department will assign a number upon payment of the fee.

(5) Accompanying documentation. Unless otherwise exempted by law, completed applications for commercial license plates shall be accompanied by:

(A) prescribed registration fees;

(B) prescribed local fees or other fees that are collected in conjunction with registering a vehicle;

(C) evidence of financial responsibility as required by Transportation Code, §502.046; however, if the applicant is a motor carrier as defined by §218.2 of this title (relating to Definitions), proof of financial responsibility may be in the form of a registration listing [or an international stamp] indicating that the vehicle is registered in compliance with Chapter 218, Subchapter B of this title (relating to Motor Carrier Registration);

(D) an application for Texas Title in accordance with Subchapter A of this chapter, or other proof of ownership;

(E) proof of payment of the Federal Heavy Vehicle Use Tax, if applicable;

(F) an original or certified copy of the current permit issued in accordance with Occupations Code, Chapter 2308, Subchapter C, if application is being made for Tow Truck license plates; and

(G) other documents or fees required by law.

[(6) Proof of payment required. Proof of payment of the Federal Heavy Vehicle Use Tax is required for vehicles with a gross registration weight of 55,000 pounds or more, or in cases where the vehicle's gross weight is voluntarily increased to 55,000 pounds or more. Proof of payment shall consist of an original or photocopy of the Schedule 1 portion of Form 2290 receipted by the Internal Revenue Service (IRS), or a copy of the Form 2290 with Schedule 1 attached as filed with the IRS, along with a photocopy of the front and back of the canceled check covering the payment to the IRS.]

[(7) Proof of payment not required. Proof of payment of the Federal Heavy Vehicle Use Tax is not required:]

[(A) for new vehicles when an application for title and registration is supported by a Manufacturer's Certificate of Origin;]

[(B) on used vehicles when an application for title and registration is filed within 60 days from the date of transfer to the applicant as reflected on the assigned title, except that proof of payment will be required when an application for Texas title and registration is accompanied by an out-of-state title that is recorded in the name of the applicant;]

[(C) when a vehicle was previously wrecked, in storage, or otherwise out of service and, therefore, not registered or operated during the current registration year or during the current tax year, provided that a non-use affidavit is signed by the operator; and]

[(D) as a prerequisite to registration of vehicles apprehended for operating without registration or reciprocity or when an owner or operator purchases temporary operating permits or additional weight.]

(d) Renewal of commercial license plates.

(1) Registration period. The department will establish the registration period for commercial vehicles, unless specified by statute. Commercial license plates are issued for established annual registration periods. [as follows.]

[(A) March expiration. If a fleet under §217.54 of this title (relating to Registration of Fleet Vehicles) contains a vehicle with a combination license plate, the established annual registration period for the fleet is April 1st through March 31st.]

[(B) Five-year registration with March 31st expiration. The following license plates are available with a five-year registration period. Registration fees for the license plates listed below may be paid on an annual basis, or may be paid up front for the entire five-year period:]

[(i) Five-year Rental Trailer license plates issued for rental trailers that are part of a rental fleet; and]

[(ii) Five-year Token Trailer license plates, available to owners of semitrailers to be used in combination with truck-tractors displaying Apportioned or Combination license plates.]

(2) Registration Renewal Notice. The department will send a registration renewal notice, indicating the proper registration fee and the month and year the registration expires, to each vehicle owner approximately six to eight weeks prior to the expiration of the vehicle's registration.

(3) Return of registration renewal notices. Except for authorized online renewals, registration renewal notices should be returned by the vehicle owner to the department or the appropriate county tax assessor-collector, as indicated on the registration renewal notice. Unless otherwise exempted by law, registration renewal notices may be returned either in person or by mail, and shall be accompanied by:

(A) statutorily prescribed registration renewal fees;

(B) prescribed local fees or other fees that are collected in conjunction with registration renewal;

(C) evidence of financial responsibility as required by Transportation Code, §502.046; and

(D) other prescribed documents or fees.

(4) Lost or destroyed registration renewal notice. If a registration renewal notice is lost, destroyed, or not received by the vehicle owner, the vehicle may be registered if the owner presents personal identification acceptable to the county tax assessor-collector. Failure to receive the notice does not relieve the owner of the responsibility to renew the vehicle's registration.

(e) Transfer of commercial vehicle license plates.

(1) Transfer between persons. With the exceptions noted in paragraph (3) of this subsection, when ownership of a vehicle displaying commercial vehicle license plates is transferred, application for transfer of such license plates shall be made with the county tax assessor-collector in the county in which the purchaser resides or a county tax assessor-collector who is willing to accept the application. If the purchaser does not intend to use the vehicle in a manner that would qualify it for the license plates issued to that vehicle, such license plates must be exchanged for the appropriate license plates.

(2) Transfer between vehicles. Commercial vehicle license plates are non-transferable between vehicles.

(3) Transfer of Apportioned and Tow Truck license plates. Apportioned and Tow Truck license plates are non-transferable between persons or vehicles, and become void if the vehicle to which the license plates were issued is sold.

(f) Replacement of lost, stolen, or mutilated commercial vehicle license plates. An owner of lost, stolen, or mutilated commercial vehicle license plates may obtain replacement license plates by filing an Application for Replacement Plates and remitting the prescribed fee to the county tax assessor-collector or from the department.

§217.50. Equipment and Vehicles Within Road Construction Projects.

Road construction equipment (machinery type vehicles) operating laden or unladen within the limits of a project are not required to display the $5 machinery license plate, regardless of the intermingling of regular vehicular traffic; however, conventional commercial vehicles operating within the limits of a project shall be required to be registered with regular commercial license plates whenever traffic is allowed to intermingle. [~~A highway construction project is that section of the highway between the warning signs giving notice of a construction area.~~]

§217.51. Change of Classification: Trucks and Truck-Tractors.

When a truck is converted into a truck-tractor and the registration classification is changed from "truck" to "combination," an exchange of license plates is required; however, if a truck-tractor is converted into a truck and the registration classification is changed from "combination" to "truck" the license plates shall not be exchanged, unless the change involves a major permanent reconstruction change, such as when the frame of a truck-tractor is altered to accommodate the installation of a different type bed or body. In this instance, the owner must exchange license plates and file an application for corrected title. Under no circumstances will a refund in registration fees be authorized when a combination plate is exchanged for truck license plates as the result of a reconstruction change.

§217.52. Marketing of Specialty License Plates through a Private Vendor.

(a) Purpose and scope. The department will enter into a contract with a private vendor to market department-approved specialty license plates in accordance with Transportation Code, Chapter 504, Subchapter J. This section sets out the procedure for approval of the design, purchase, and replacement of vendor specialty license plates. In this section, the license plates marketed by the vendor are referred to as vendor specialty license plates.

(b) Application for approval of vendor specialty license plate designs.

(1) Approval required. The vendor shall obtain the approval of the board for each license plate design the vendor proposes to market in accordance with this section and the contract entered into between the vendor and the department.

(2) Application. The vendor must submit a written application on a form approved by the executive director to the department for approval of each license plate design the vendor proposes to market. The application must include:

(A) a draft design of the specialty license plate;

(B) projected sales of the license plate, including an explanation of how the projected figure was determined;

(C) a marketing plan for the license plate including a description of the target market;

(D) a licensing agreement from the appropriate third party for any design or design element that is intellectual property; and

(E) other information necessary for the board to reach a decision regarding approval of the requested vendor specialty license plate.

(c) Review and approval process. The board will review vendor specialty license plate applications. The board:

(1) will not consider incomplete applications; and

(2) may request additional information from the vendor to reach a decision.

(d) Board decision.

(1) Decision. The decision of the board will be based on:

(A) compliance with Transportation Code, Chapter 504, Subchapter J;

(B) the proposed license plate design, including:

(i) whether the design meets the legibility and reflectivity standards established by the department;

(ii) whether the design meets the standards established by the department for uniqueness to ensure that the proposed license plate complies with Transportation Code, §504.852(c);

(iii) whether the license plate design can accommodate the International Symbol of Access (ISA) as required by Transportation Code, §504.201(f);

(iv) the criteria designated in §217.27 of this title (relating to Vehicle Registration Insignia) as applied to the design;

(v) whether a design is similar enough to an existing license plate design that it may compete with the existing license plate sales; and

(vi) other information provided during the application process.

(2) Public comment on proposed design. All proposed license plate designs will be considered by the board as an agenda item at a regularly or specially called open meeting. Notice of consideration of proposed license plate designs will be posted in accordance with Office of the Secretary of State meeting notice requirements. Notice of each license plate design will be posted on the department's Internet web site to receive public comment at least 25 days in advance of the meeting at which it will be considered. The department will notify all specialty license plate organizations and the sponsoring agencies who administer specialty license plates issued in accordance with Transportation Code, Chapter 504, Subchapter G, of the posting. A comment on the proposed design can be submitted in writing through the mechanism provided on the department's Internet web site for submission of comments. Written comments are welcome and must be received by the department at least 10 days in advance of the meeting. Public comment will be received at the board's meeting.

(e) Final approval and specialty license plate issuance.

(1) Approval. The board will approve or disapprove the specialty license plate application based on all of the information provided pursuant to this subchapter in an open meeting.

(2) Application not approved. If the application is not approved, the applicant may submit a new application and supporting documentation for the design to be considered again by the board if:

(A) the applicant has additional, required documentation; or

(B) the design has been altered to an acceptable degree.

(3) Issuance of approved specialty license plates.

(A) If the vendor's specialty license plate is approved, the vendor must submit the non-refundable start-up fee before any further design and processing of the specialty license plate.

(B) Approval of the specialty license plate does not guarantee that the submitted draft specialty license plate design will be used. The board has final approval of all specialty license plate designs and will provide guidance on the submitted draft design to ensure compliance with the format and specialty license plate specifications.

(f) Redesign of vendor specialty license plates.

(1) On receipt of a written request from the vendor, the department will allow a redesign of a vendor specialty license plate.

(2) The vendor must pay the redesign administrative costs as provided in the contract between the vendor and the department.

(g) Multi-year vendor specialty license plates. Purchasers will have the option of purchasing vendor specialty license plates for a one-year, a three-year, or a five-year period.

(h) License plate categories and associated fees. The categories and the associated fees for vendor specialty license plates are set out in this subsection.

(1) Custom license plates. Custom license plates include license plates with a variety of pre-approved background and character color combinations that may be personalized with either three alpha and two or three numeric characters or two or three numeric and three alpha characters. Generic license plates on standard white sheeting with the word "Texas" that may be personalized with up to six alphanumeric characters are considered custom license plates before December 2, 2010. The fees for issuance of Custom and Generic license plates are $150 for one year, $400 for three years, and $450 for five years.

(2) T-Plates (Premium) license plates. T-Plates (Premium) license plates may be personalized with up to seven alphanumeric characters, including the "T," on colored backgrounds or designs approved by the department. The fees for issuance of T-Plates (Premium) license plates are $150 for one year, $400 for three years, and $450 for five years.

(3) Luxury license plates. Luxury license plates may be personalized with up to six alphanumeric characters on colored backgrounds or designs approved by the department. The fees for issuance of luxury license plates are $150 for one year, $400 for three years, and $450 for five years.

(4) Freedom license plates. Freedom license plates include license plates with a variety of pre-approved background and character color combinations that may be personalized with up to seven alphanumeric characters. The fees for issuance of freedom license plates are $195 for one year, $445 for three years, and $495 for five years.

(5) Background-only license plates. Background-only license plates include non-personalized license plates with a variety of pre-approved background and character color combinations and may be embossed or non-embossed.

(A) The fees for issuance of non-embossed, background only license plates are $50 for one year, $130 for three years, and $175 for five years.

(B) Except as stated in subsection (h)(9)(C), the fees for embossed, background-only license plates are $125 for one year, $205 for three years, and $250 for five years.

(6) Vendor souvenir license plates. Vendor souvenir license plates are replicas of vendor specialty license plate designs that may be personalized with up to 24 alphanumeric characters. Vendor souvenir license plates are not street legal or legitimate insignias of vehicle registration. The fee for issuance of souvenir license plates is $40.

(7) Auction [~~of alphanumeric patterns~~]. The vendor may auction department-approved license plate numbers [~~alphanumeric patterns~~] for one, three, or five year terms with options to renew indefinitely at the current price established for a one, three, or five year luxury category license plate. The purchaser of the auction license plate number [~~pattern~~] may select from the vendor background designs, including any embossed license plate designs, at no additional charge at the time of initial issuance. The auction license plate number [~~pattern~~] may be moved from one vendor design plate to another vendor design license plate as provided in subsection (n)(1) of this section. The auction license plate number [~~pattern~~] may be transferred from owner to owner as provided in subsection (l)(2) of this section.

(8) Embossed, personalized specialty license plates. The vendor may sell embossed, personalized specialty license plates with a variety of pre-approved background and character color combinations that may be personalized with up to seven alphanumeric characters. Except as stated in subsection (h)(7) of this section, the fees for issuance of embossed, personalized specialty license plates are $270 for one year, $520 for three years, and $570 for five years. Except as stated in subsection (h)(9)(C) of this section, the fees under subsection (h)(9) of this section do not apply to an embossed, personalized specialty license plate.

(9) Personalization and specialty license plate fees.

(A) The fee for the personalization of license plates applied for prior to November 19, 2009 is $40 if the license plates are renewed annually.

(B) The personalization fee for license plates applied for after November 19, 2009 is $40 if the license plates are issued pursuant to Transportation Code, Chapter 504, Subchapters G and I.

(C) If the license plates are renewed annually, the personalization and specialty license plate fees remain the same fee as at the time of issuance if a sponsor of a specialty license plate authorized under Transportation Code, Chapter 504, Subchapters G and I signs a contract with the vendor in accordance with Transportation Code, Chapter 504, Subchapter J, even if the board approves the specialty license plate to be an embossed specialty license plate design.

(i) Payment of fees.

(1) Payment of specialty license plate fees. The fees for issuance of vendor specialty license plates will be paid directly to the state through vendor and state systems for the license plate category and period selected by the purchaser. A person who purchases a multi-year vendor specialty license plate must pay upon purchase the full fee which includes the renewal fees.

(2) Payment of statutory registration fees. To be valid for use on a motor vehicle, the license plate owner is required to pay, in addition to the vendor specialty license plate fees, any statutorily required registration fees in the amount as provided by Transportation Code, Chapter 502, and this subchapter.

(j) Refunds. Fees for vendor specialty license plate fees will not be refunded after an application is submitted to the vendor and the department has approved issuance of the license plate.

(k) Replacement.

(1) Application. An owner must apply directly to the county tax assessor-collector for the issuance of replacement vendor specialty license plates and must pay the fee described in paragraphs [~~paragraph~~] (2) or (3) of this subsection, whichever applies.

(2) Lost or mutilated vendor specialty license plates. To replace vendor specialty license plates that are lost or mutilated, the owner must pay the statutory replacement fee provided in Transportation Code, §504.007.

(3) Optional replacements. An owner of a vendor specialty license plate may replace vendor specialty license plates by submitting a request to the county tax assessor-collector accompanied by the payment of a $6 fee.

(4) Interim replacement tags. If the vendor specialty license plates are lost or mutilated to such an extent that they are unusable, replacement specialty license plates may [~~will need to~~] be remanufactured. The county tax assessor-collector will issue interim replacement tags for use until the replacements are available. The owner's vendor specialty license plate number will be shown on the interim replacement tags.

(5) Stolen vendor specialty license plates. The county tax assessor-collector will not approve the issuance of replacement vendor specialty license plates with the same license plate number if the department's records indicate that the vehicle displaying that license plate number was reported stolen or the license plates themselves were reported stolen to law enforcement.

(l) Transfer of vendor specialty license plates.

(1) Transfer between vehicles. The owner of a vehicle with vendor specialty license plates may transfer the specialty license plates between vehicles by filing an application through the county tax assessor-collector if the vehicle to which the specialty license plates are transferred:

(A) is titled or leased in the owner's name; and

(B) meets the vehicle classification requirements for that [~~particular~~] specialty license plate.

(2) Transfer between owners. Vendor specialty license plates may not be transferred between persons unless the specialty license plate number [~~pattern~~] was initially purchased through auction as provided in subsection (h)(7) of this section. An auctioned license plate number [~~alphanumeric pattern~~] may be transferred as a specialty license plate or as a virtual pattern to be manufactured on a new background as provided under the restyle option in subsection (n)(1) of this section. In addition to the fee paid at auction, the new owner of an auctioned license plate number [~~alphanumeric pattern~~] or plate will pay the department a fee of $25 to cover the cost of the transfer, and complete the department's prescribed application at the time of transfer.

(m) Gift license plates.

(1) A person may purchase license plates as a gift for another person if the purchaser submits a statement that provides:

(A) the purchaser's name and address;

(B) the name and address of the person who will receive the license plates; and

(C) the vehicle identification number of the vehicle on which the license plates will be displayed or a statement that the license plates will not be displayed on a vehicle.

(2) To be valid for use on a motor vehicle, the recipient of the license plates must file an application with the county tax assessor-collector and pay the statutorily required registration fees in the amount as provided by Transportation Code, Chapter 502, and this subchapter.

(n) Restyled vendor specialty license plates. A person who has purchased a multi-year vendor specialty license plate may request a restyled license plate at any time during the term of the plate.

(1) For the purposes of this subsection, "restyled license plate" is a vendor specialty license plate that has a different style from the originally purchased vendor specialty license plate but:

(A) is within the same price category, except if the license plate number was purchased through auction [~~pattern is an auction pattern~~] and has the same alpha-numeric characters and expiration date as the previously issued multi-year license plates; or

(B) is restyling from a non-embossed specialty license plate style to an embossed specialty license plate style and has the same alpha-numeric characters and expiration date as the previously issued multi-year license plates.

(2) The fee for each restyled license plate is:

(A) $50 for restyling under subsection (n)(1)(A) of this section; or

(B) $75 for restyling under subsection (n)(1)(B) of this section.

§217.53. Disposition [~~Removal~~] of License Plates and Registration Insignia upon Sale or Transfer of Motor Vehicle.

(a) Upon the sale or transfer of a motor vehicle to a dealer that holds a general distinguishing number (dealer), general issue license plates shall be removed and retained for issuance to a subsequent retail purchaser of that motor vehicle and the registration insignia shall be removed and disposed of by the dealer as provided in Transportation Code, §502.491, §504.901, and §215.158 of this title (relating to General Requirements for Buyer's License Plates). If a dealer transfers a motor vehicle in a transaction other than a retail sale, the removed general issue license plates shall transfer with the motor vehicle. [~~Purpose. Transportation Code, Chapter 502, Subchapter L and Chapter 504, Subchapter K, provide for the removal of the license plates and registration insignia when a motor vehicle is sold or transferred. Motor vehicles eligible for this process are limited to a passenger car or a light truck, as those terms are defined in Transportation Code, §502.001.~~]

(b) Upon the sale or transfer of a motor vehicle in which neither party is a dealer, the registration insignia and the general issue license plates remain with the motor vehicle as provided in Transportation Code, §502.491(b) and §504.901. [~~Disposition of removed license plates. License plates removed from a motor vehicle by a licensed motor vehicle dealer or by a motor vehicle owner in a private transaction as provided in Transportation Code, §502.491, may be:~~]

[~~(1) transferred to another vehicle:~~]

[~~(A) that is titled or will be titled in the same owner name as the vehicle from which the license plates were removed;~~]

[~~(B) that is of the same vehicle classification (passenger car or light truck) as the vehicle from which the license plates were removed; and~~]

[~~(C) upon acceptance of a request to transfer the license plate by the county tax assessor-collector in which the application is filed as provided by Transportation Code, §501.023 or §502.040, whichever applies;~~]

[~~(2) disposed of in a manner that renders the license plates unusable or that ensures the license plates will not be available for fraudulent use on a motor vehicle; or~~]

[(3) retained by the owner of the motor vehicle from which the license plates were removed.]

(c) A license plate other than a general issue license plate shall be removed by the owner of a motor vehicle that is sold or transferred. Removed license plates may be transferred if eligible; otherwise, must be disposed of in a manner that renders the license plates unusable or that ensures the license plates will not be available for fraudulent use on a motor vehicle.

[(e) Vehicle transit permit.]

[(1) Obtaining a vehicle transit permit. A person who obtains a motor vehicle in a private transaction may obtain one vehicle transit permit (temporary single-trip permit), through the department's website at www.txdmv.gov if the seller or transferor has removed the license plates and registration insignia.]

[(2) Restrictions. The permit, which is valid only for the period shown on the permit, may be used for operation of the motor vehicle only as provided in Transportation Code, §502.492, and must be carried in the vehicle at all times. The permit may only be used on passenger vehicles 6,000 pounds or less and light trucks with a gross vehicle weight of 10,000 pounds or less.]

(d) If the purchaser at a retail sale chooses to obtain replacement general issue license plates, the replaced license plates must be disposed of in a manner that renders the license plates unusable or that ensures the license plates will not be available for fraudulent use on a motor vehicle.

§217.54. Registration of Fleet Vehicles.

(a) Scope. A registrant may consolidate the registration of multiple motor vehicles in a fleet instead of registering each vehicle separately. A fleet may include trailers and semitrailers. Except as provided by §217.55 of this title (relating to Exempt and Alias Vehicle Registration), to consolidate registration, a registration must meet the requirements of this section.

(b) Eligibility. A fleet must meet the following requirements to be eligible for fleet registration.

(1) No fewer than 12 vehicles will be registered as a fleet;

(2) Vehicles may be registered in annual increments for up to eight years;

(3) All vehicles in a fleet must be owned by or leased to the same business entity;

(4) All vehicles must be vehicles that are not registered under the International Registration Plan; and

(5) Each vehicle must currently be titled in Texas or be issued a registration receipt, or the registrant must submit an application for a title or registration for each vehicle.

(c) Application.

(1) Application for fleet registration must be in a form prescribed by the department. At a minimum the form will require:

(A) the full name and complete address of the registrant;

(B) a description of each vehicle in the fleet, which may include the vehicle's model year, make, model, vehicle identification number, document number, body style, gross weight, empty weight, and for a commercial vehicle, manufacturer's rated carrying capacity in tons;

(C) the existing license plate number, if any, assigned to each vehicle; and

(D) any other information that the department may require.

(2) The application must be accompanied by the following items:

(A) in the case of a leased vehicle, a certification that the vehicle is currently leased to the person to whom the fleet registration will be issued;

(B) registration fees prescribed by law for the entire registration period selected by the registrant;

(C) local fees or other fees prescribed by law and collected in conjunction with registering a vehicle for the entire registration period selected by the registrant;

(D) evidence of financial responsibility for each vehicle as required by Transportation Code, §502.046, unless otherwise exempted by law;

(E) annual proof of payment of Heavy Vehicle Use Tax;

(F) any fees that are required to be collected at the time of registration under Transportation Code, §548.509 for the first year of registration under Transportation Code, §502.0023; [the state's portion of the vehicle inspection fee;] and

(G) any other documents or fees required by law.

(d) Registration period.

(1) The fleet owner will designate a single registration period for a fleet so the registration period for each vehicle will expire on the same date.

(2) The fleet registration period will begin on the first day of a calendar month and end on the last day of a calendar month.

(e) Registration receipt and fleet license plates.

(1) As evidence of registration, the department will issue a registration receipt and one or two metal fleet license plates for each vehicle in a fleet.

(2) The registration receipt for each vehicle shall at all times be carried in that vehicle and be available to law enforcement personnel upon request.

(3) A registration receipt or fleet license plate may not be transferred between vehicles, owners, or registrants.

(f) Fleet composition.

(1) A registrant may add a vehicle to a fleet at any time during the registration period. An added vehicle will be given the same registration period as the fleet and will be issued one or two metal fleet license plates and a registration receipt.

(2) A registrant may remove a vehicle from a fleet at any time during the registration period. After a vehicle is removed from the fleet, the fleet registrant shall either return the metal fleet license plates for that vehicle to the department or provide the department with acceptable proof that the metal fleet license plates for that vehicle have been destroyed. Credit for any vehicle removed from the fleet for the remaining full year increments can be applied to any vehicle added to the fleet or at the time of renewal. No refunds will be given if credit is not used or the account is closed.

(3) If the number of vehicles in an account falls below 12 during the registration period, fleet registration will remain in effect. If the number of vehicles in an account is below 12 at the end of the registration period, fleet registration will be canceled. In the event of cancellation, each vehicle shall be registered separately. The registrant

shall immediately either return all metal fleet license plates to the department or provide the department with acceptable proof that the metal fleet license plates have been destroyed.

(g) Fees.

(1) When a fleet is first established, the department will charge a registration fee for each vehicle for the entire registration period selected. A currently registered vehicle, however, will be given credit for any remaining time on its separate registration.

(2) When a vehicle is added to an existing fleet, the department will charge a registration fee that is prorated based on the number of months of fleet registration remaining. If the vehicle is currently registered, this fee will be adjusted to provide credit for the number of months of separate registration remaining.

(3) When a vehicle is removed from fleet registration, it will be considered to be registered separately. The vehicle's separate registration will expire on the date that the fleet registration would have expired. The registrant must pay the statutory replacement fee to obtain regular registration insignia before the vehicle may be operated on a public highway.

(4) In addition to the registration fees prescribed by Transportation Code, Chapter 502, an owner registering a fleet under this section must pay a one-time fee of $10 per motor vehicle, semitrailer, or trailer in the fleet. This fee is also due as follows:

(A) for each vehicle added to the owner's existing fleet; and

(B) for each vehicle that a buyer registers as a fleet, even though the seller previously registered some or all of the vehicles as a fleet under this section.

(h) Payment. Payment will be made in the manner prescribed by the department.

(i) Cancellation.

(1) The department will cancel registration for non-payment and lack of proof of annual payment of the Heavy Vehicle Use Tax.

(2) The department may cancel registration on any fleet vehicle on the anniversary date of the registration if the fleet vehicle is not in compliance with the inspection requirements under Transportation Code, Chapter 548 or the inspection requirements in the rules of the Texas Department of Public Safety.

(3) A vehicle with a canceled registration may not be operated on a public highway.

(4) If the department cancels the registration of a vehicle under this subsection, the registrant can request the department to reinstate the registration by doing the following:

(A) complying with the requirements for which the department canceled the registration;

(B) providing the department with notice of compliance on a form prescribed by the department; and

(C) for a registration canceled under paragraph (2) of this subsection, paying an administrative fee in the amount of $10.

(5) A registrant is eligible for reinstatement of the registration only within 90 calendar days of the department's notice of cancellation.

(6) If a registrant fails to timely reinstate the registration of a canceled vehicle registration under this section, the registrant:

(A) is not entitled to a credit or refund of any registration fees for the vehicle; and

(B) must immediately either return the metal fleet license plates to the department or provide the department with acceptable proof that the metal fleet license plates have been destroyed.

(j) Inspection fee. The registrant must pay the department by the deadline listed in the department's invoice for any fees that are required to be collected at the time of registration under Transportation Code, §548.509 on an annual basis under Transportation Code, §502.0023. [~~the state's portion of the vehicle inspection fee.~~]

§217.55. Exempt and Alias Vehicle Registration.

(a) Exempt license plate registration.

(1) Issuance. Pursuant to Transportation Code, §502.453 or §502.456, certain vehicles owned by and used exclusively in the service of a governmental agency, owned by a commercial transportation company and used exclusively for public school transportation services, designed and used for fire-fighting or owned by a volunteer fire department and used in the conduct of department business, privately owned and used in volunteer county marine law enforcement activities, used by law enforcement under an alias for covert criminal investigations, owned by units of the United States Coast Guard Auxiliary headquartered in Texas and used exclusively for conduct of United States Coast Guard or Coast Guard Auxiliary business and operations, or owned or leased by a non-profit emergency medical service provider are exempt from payment of a registration fee and are eligible for exempt plates.

(2) Application for exempt registration.

(A) Application. An application for exempt license plates shall be made to the county tax assessor-collector, shall be made on a form prescribed by the department, and shall contain the following information:

(i) vehicle description;

(ii) name of the exempt agency;

(iii) a certification by an authorized person stating that the vehicle is owned or under the control of and will be operated by the exempt agency; and

(iv) a certification that each vehicle listed on the application has the name of the exempt agency printed on each side of the vehicle in letters that are at least two inches high or in an emblem that is at least 100 square inches in size and of a color sufficiently different from the body of the vehicle as to be clearly legible from a distance of 100 feet, unless the applicant complies with the requirements under this section for each vehicle that is exempt by law from the inscription requirements.

(B) Emergency medical service vehicle.

(i) The application for exempt registration must contain the vehicle description, the name of the emergency medical service provider, and a statement signed by an officer of the emergency medical service provider stating that the vehicle is used exclusively as an emergency response vehicle and qualifies for registration under Transportation Code, §502.456.

(ii) A copy of an emergency medical service provider license issued by the Department of State Health Services must accompany the application.

(C) Fire-fighting vehicle. The application for exempt registration of a fire-fighting vehicle or vehicle owned privately by a volunteer fire department and used exclusively in the conduct of de-

partment business must contain the vehicle description, including a description of any fire-fighting equipment mounted on the vehicle if the vehicle is a fire-fighting vehicle. The certification must be executed by the person who has the proper authority and shall state either:

(i) the vehicle is designed and used exclusively for fire-fighting; or

(ii) the vehicle is owned by a volunteer fire department and is used exclusively in the conduct of its business.

(D) County marine law enforcement vehicle. The application for exempt registration of a privately-owned vehicle used by a volunteer exclusively in county marine law enforcement activities, including rescue operations, under the direction of the sheriff's department must include a statement signed by a person having the authority to act for a sheriff's department verifying that fact.

(E) United States Coast Guard Auxiliary vehicle. The application for exempt registration of a vehicle owned by units of the United States Coast Guard Auxiliary headquartered in Texas and used exclusively for conduct of United States Coast Guard or Coast Guard Auxiliary business and operation, including search and rescue, emergency communications, and disaster operations, must include a statement by a person having authority to act for the United States Coast Guard Auxiliary that the vehicle or trailer is used exclusively in fulfillment of an authorized mission of the United States Coast Guard or Coast Guard Auxiliary, including search and rescue, emergency communications, or disaster operations.

(F) Motor vehicles owned and used by state-supported institutions. If the applicant is exempt from the inscription requirements under Education Code §51.932, the applicant must present a certification that each vehicle listed on the application is exempt from the inscription requirements under Education Code §51.932.

(3) Exception. A vehicle may be exempt from payment of a registration fee but display license plates other than exempt license plates if the vehicle is not registered under subsection (b) of this section.

(A) If the applicant is a law enforcement office, the applicant must present a certification that each vehicle listed on the application will be dedicated to law enforcement activities.

(B) If the applicant is exempt from the inscription requirements under Transportation Code, §721.003, the applicant must present a certification that each vehicle listed on the application is exempt from inscription requirements under Transportation Code, §721.003. The applicant must also provide a citation to the section that exempts the vehicle.

(C) If the applicant is exempt from the inscription requirements under Transportation Code, §721.005 the applicant must present a certification that each vehicle listed on the application is exempt from inscription requirements under Transportation Code, §721.005. The applicant must also provide a copy of the order or ordinance that exempts the vehicle.

(b) Affidavit for issuance of exempt registration under an alias.

(1) On receipt of an affidavit for alias exempt registration, approved by the executive administrator of an exempt law enforcement agency, the department will issue alias exempt license plates for a vehicle and register the vehicle under an alias for the law enforcement agency's use in covert criminal investigations.

(2) The affidavit for alias exempt registration must be in a form prescribed by the director and must include the vehicle description, a sworn statement that the vehicle will be used in covert criminal investigations, and the signature of the executive administrator or the executive administrator's designee as provided in paragraph (3) of this subsection. The vehicle registration insignia of any vehicles no longer used in covert criminal investigations shall be surrendered immediately to the department.

(3) The executive administrator, by annually filing an authorization with the director, may appoint a staff designee to execute the affidavit. A new authorization must be filed when a new executive administrator takes office.

(4) The letter of authorization must contain a sworn statement delegating the authority to sign the affidavit to a designee, the name of the designee, and the name and the signature of the executive administrator.

(5) The affidavit for alias exempt registration must be accompanied by an [~~by a title~~] application required by the department to create the alias record of vehicle registration and title as outlined in §217.13 of this title (relating to Alias Certificate of Title)[~~under §217.103 of this title (relating to Restitution Liens)~~]. The application must contain the information required by the department to create the alias record of vehicle registration and title.

(c) Replacement of exempt registration.

(1) If a metal exempt license plate is lost, stolen, or mutilated, a properly executed application for metal exempt license plates must be submitted to the county tax assessor-collector.

(2) An application for replacement metal exempt license plates must contain the vehicle description, original license number, and the sworn statement that the license plates furnished for the vehicle have been lost, stolen, or mutilated and will not be used on any other vehicle.

(d) Title requirements. Unless exempted by statute, a vehicle must be titled at the time the exempt registration is issued.

(e) Extended Registration of County Fleet Vehicles.

(1) Subsections (a)(2), (a)(3)(B), and (c) of this section do not apply under this subsection.

(2) The owner of the exempt county fleet must file a completed application for exempt county fleet registration on a form prescribed by the department, and shall contain the following information:

(A) vehicle description;

(B) name of the exempt agency;

(C) a certification by an authorized person stating that the vehicle is owned by and used exclusively in the service of the county;

(D) a certification that each vehicle listed on the application has the name of the exempt agency printed on each side of the vehicle in letters that are at least two inches high or in an emblem that is at least 100 square inches in size and of a color sufficiently different from the body of the vehicle as to be clearly legible from a distance of 100 feet, unless the applicant complies with the requirements under this section for each vehicle that is exempt by law from the inscription requirements; and

(E) designation of a single registration period for the fleet to ensure that the registration period for each vehicle will expire on the same last day of a calendar month.

(3) The application for exempt county fleet registration must be accompanied by any fees that are required to be collected at the time of registration under Transportation Code, §548.509 for the

first year of registration under Transportation Code, §502.0025. [~~the state's portion of the vehicle inspection fees.~~]

(4) As evidence of registration, the department will issue a registration receipt and one or two metal exempt fleet license plates for each vehicle in the exempt county fleet. The registration receipt for each vehicle must be carried in that vehicle at all times and be made available to law enforcement personnel upon request. The registration receipt and exempt fleet license plates may not be transferred between vehicles, owners, or registrants.

(5) An owner may add or remove a vehicle from an exempt county fleet at any time during the registration period. An added vehicle will be given the same registration period as the other vehicles in the exempt county fleet and will be issued a registration receipt and one or two metal exempt fleet license plates. Upon the removal of a vehicle from the exempt county fleet, the owner of the vehicle shall dispose of the registration receipt and shall either return the metal exempt fleet license plates to the department or provide the department with acceptable proof that the metal exempt fleet license plates have been destroyed.

(6) An owner must pay the department by the deadline listed in the department's invoice for any fees that are required to be collected at the time of registration under Transportation Code, §548.509 on an annual basis under Transportation Code, §502.0025. [~~the state's portion of the vehicle inspection fee.~~] Payment shall be made in the manner prescribed by the department.

(7) The department may cancel registration on an exempt county fleet or any vehicle in an exempt county fleet on the anniversary date of the registration if the vehicle is not in compliance with Transportation Code §502.0025, this subsection, the inspection requirements under Transportation Code Chapter 548, or the inspection requirements in the rules of the Texas Department of Public Safety. A vehicle with a canceled registration may not be operated on a public highway.

(8) If the department cancels the registration of a vehicle in an exempt county fleet under subsection (e)(7) of this section, the owner may request that the department reinstate the registration. To request reinstatement, the owner must comply with the requirements that led the department to cancel the registration and must provide the department with notice of compliance on a form prescribed by the department. An owner is eligible for reinstatement of the registration of a vehicle in an exempt county fleet if the department receives the owner's request for reinstatement and proof of compliance no later than 90 calendar days after the date of the department's notice of cancellation. If the department does not timely receive an owner's request to reinstate the registration, the owner must immediately do the following:

(A) either return all metal exempt county fleet license plates to the department or provide the department with acceptable proof that the metal exempt county fleet license plates have been destroyed; and

(B) dispose of the registration receipt in a manner prescribed by the department.

(9) If a metal exempt county fleet license plate is lost, stolen, or mutilated, the owner may request a new metal exempt county fleet license plate from the department. The request must include the following:

(A) a certification that the previously issued metal exempt county fleet license plate furnished for the vehicle has been lost, stolen, or mutilated and that the new metal exempt county fleet license plate will not be used on any other vehicle;

(B) the vehicle description; and

(C) the original license plate number, if applicable.

§217.56. Registration Reciprocity Agreements.

(a) Purpose. To promote and encourage the fullest possible use of the highway system and contribute to the economic development and growth of the State of Texas and its residents, the department is authorized by Transportation Code, §502.091 to enter into agreements with duly authorized officials of other jurisdictions, including any state of the United States, the District of Columbia, a foreign country, a state or province of a foreign country, or a territory or possession of either the United States or of a foreign country, and to provide for the registration of vehicles by Texas residents and nonresidents on an allocation or distance apportionment basis, and to grant exemptions from the payment of registration fees by nonresidents if the grants are reciprocal to Texas residents.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Cab card--The apportioned vehicle registration receipt that contains, but is not limited to, the vehicle description and the registered weight at which the vehicle may operate in each jurisdiction.

(2) Department--The Texas Department of Motor Vehicles.

(3) Director--The director of the Motor Carrier Division, Texas Department of Motor Vehicles.

(4) Executive director--The chief executive officer of the department.

(5) Regional Service Center--A department office which provides specific services to the public, including replacement titles, bonded title notices of determination [~~rejection letters~~], and apportioned registration under the International Registration Plan (IRP).

(6) Temporary cab card--A temporary registration [~~permit~~] authorized by the department that allows the operation of a vehicle for 30 days subject to all rights and privileges afforded to a vehicle displaying apportioned registration.

(c) Multilateral agreements.

(1) Authority. The executive director may on behalf of the department enter into a multilateral agreement with the duly authorized officials of two or more other jurisdictions to carry out the purpose of this section.

(2) International Registration Plan.

(A) Applicability. The IRP is a registration reciprocity agreement among states of the United States and other jurisdictions providing for payment of registration fees on the basis of fleet distance operated in various jurisdictions. Its purpose is to promote and encourage the fullest possible use of the highway system by authorizing apportioned registration for commercial motor vehicles and payment of appropriate vehicle registration fees and thus contributing to the economic development and growth of the member jurisdictions.

(B) Adoption. The department adopts by reference the January 1, 2024, [~~2022,~~] version of the IRP. The department also adopts by reference the January 1, 2016, version of the IRP Audit Procedures Manual. In the event of a conflict between this section and the IRP or the IRP Audit Procedures Manual, the IRP and the IRP Audit Procedures Manual control. Copies of the documents are available online at www.irponline.org or on request to the department. [~~for review in the Motor Carrier Division, Texas Department of Motor Vehicles. Copies are also available on request.~~]

(C) Application.

(i) An applicant must submit an application to the department on a form prescribed by the director, along with additional documentation as required by the director. An applicant shall provide the department with a copy of the applicant's receipt under the Unified Carrier Registration System Plan and Agreement under 49 U.S.C. §14504a (UCR) to prove the applicant is currently registered under UCR if the applicant is required to register under UCR.

(ii) Upon approval of the application, the department will compute the appropriate registration fees and notify the registrant.

(D) Fees. Upon receipt of the applicable fees in the form as provided by §209.23 of this title (relating to Methods of Payment), the department will issue one or two license plates and a cab card for each vehicle registered.

(E) Display of License Plates and Cab Cards.

(i) The department will issue one license plate for a tractor, truck-tractor, trailer, and semitrailer. The license plate issued to a tractor or a truck-tractor shall be installed on the front of the tractor or truck-tractor, and the license plate issued for a trailer or semitrailer shall be installed on the rear of the trailer or semitrailer.

(ii) The department will issue two license plates for all other vehicles that are eligible to receive license plates under the IRP. Once the department issues two license plates for a vehicle listed in this clause, one plate shall be installed on the front of the vehicle, and one plate shall be installed on the rear of the vehicle.

(iii) The cab card shall be carried at all times in the vehicle in accordance with the IRP. If the registrant chooses to display an electronic image of the cab card on a wireless communication device or other electronic device, such display does not constitute consent for a peace officer, or any other person, to access the contents of the device other than the electronic image of the cab card.

(iv) The authority to display an electronic image of the cab card on a wireless communication device or other electronic device does not prevent the Texas State Office of Administrative Hearings or a court of competent jurisdiction from requiring the registrant to provide a paper copy of the cab card in connection with a hearing, trial, or discovery proceeding.

(F) Audit. An audit of the registrant's vehicle operational records may be conducted by the department according to the IRP provisions and the IRP Audit Procedures Manual. Upon request, the registrant shall provide the operational records of each vehicle for audit in unit number order, in sequence by date, and including, but not limited to, a summary of distance traveled by each individual vehicle on a monthly, quarterly, and annual basis with distance totaled separately for each jurisdiction in which the vehicle traveled.

(G) Assessment. The department may assess additional registration fees of up to 100% of the apportionable fees paid by the registrant for the registration of its fleet in the registration year to which the records pertain, as authorized by the IRP, if an audit conducted under subparagraph (F) of this paragraph reveals that:

(i) the operational records indicate that the vehicle did not generate interstate distance in two or more member jurisdictions for the distance reporting period supporting the application being audited, plus the six-month period immediately following that distance reporting period;

(ii) the registrant failed to provide complete operational records; or

(iii) the distance must be adjusted, and the adjustment results in a shortage of registration fees due Texas or any other IRP jurisdiction.

(H) Refunds. If an audit conducted under subparagraph (F) of this paragraph reveals an overpayment of fees to Texas or any other IRP jurisdiction, the department will refund the overpayment of registration fees in accordance with Transportation Code, §502.195 and the IRP. Any registration fees refunded to a carrier for another jurisdiction will be deducted from registration fees collected and transmitted to that jurisdiction.

(I) Cancellation or revocation. The director or the director's designee may cancel or revoke a registrant's apportioned registration and all privileges provided by the IRP as authorized by the following:

(i) the IRP; or

(ii) Transportation Code, Chapter 502.

(J) Procedures for assessment, cancellation, or revocation.

(i) Notice. If a registrant is assessed additional registration fees, as provided in subparagraph (G) of this paragraph, and the additional fees are not paid by the due date provided in the notice or it is determined that a registrant's apportioned license plates and privileges should be canceled or revoked, as provided in subparagraph (I) of this paragraph, the director or the director's designee will mail a notice by certified mail to the last known address of the registrant. The notice will state the facts underlying the assessment, cancellation, or revocation; the effective date of the assessment, cancellation, or revocation; and the right of the registrant to request a conference as provided in clause (ii) of this subparagraph.

(ii) Conference. A registrant may request a conference upon receipt of a notice issued as provided by clause (i) of this subparagraph. The request must be made in writing to the director or the director's designee within 30 days of the date of the notice. If timely requested, the conference will be scheduled and conducted by the director or the director's designee at division headquarters in Austin and will serve to abate the assessment, cancellation, or revocation unless and until that assessment, cancellation, or revocation is affirmed or disaffirmed by the director or the director's designee. In the event matters are resolved in the registrant's favor, the director or the director's designee will mail the registrant a notice of withdrawal, notifying the registrant that the assessment, cancellation, or revocation is withdrawn, and stating the basis for that action. In the event matters are not resolved in the registrant's favor, the director or the director's designee will issue a decision reaffirming the department's assessment of additional registration fees or cancellation or revocation of apportioned license plates and privileges. The registrant has the right to appeal in accordance with clause (iii) of this subparagraph.

(iii) Appeal. If a conference held in accordance with clause (ii) of this subparagraph fails to resolve matters in the registrant's favor, the registrant may submit an appeal under §224.122 of this title (relating to Appeal of Decision Regarding Assessment, Cancellation, or Revocation Under §217.56). An appeal will be governed by Chapter 224 of this title (relating to Adjudicative Practice and Procedure) and Transportation Code, Chapter 502.

(K) Reinstatement.

(i) The director or the director's designee will reinstate apportioned registration to a previously canceled or revoked registrant if all applicable fees and assessments due on the previously canceled or revoked apportioned account have been paid and the applicant

provides proof of an acceptable recordkeeping system for a period of no less than 60 days.

(ii) The application for the following registration year will be processed in accordance with the provisions of the IRP.

(L) Denial of apportioned registration for safety reasons. The department will comply with the requirements of the Performance and Registration Information Systems Management program (PRISM) administered by the Federal Motor Carrier Safety Administration (FMCSA).

(i) Denial or suspension of apportioned registration. Upon notification from the FMCSA that a carrier has been placed out of service for safety violations, the department will:

(I) deny initial issuance of apportioned registration;

(II) deny authorization for a temporary cab card, as provided for in subparagraph (M) of this paragraph;

(III) deny renewal of apportioned registration; or

(IV) suspend current apportioned registration.

(ii) Issuance after denial of registration or reinstatement of suspended registration. The director or the director's designee will reinstate or accept an initial or renewal application for apportioned registration from a registrant who was suspended or denied registration under clause (i) of this subparagraph upon presentation of a Certificate of Compliance from FMCSA, in addition to all other required documentation and payment of fees.

(M) Temporary cab card.

(i) Application. The department may authorize issuance of a temporary cab card to a motor carrier with an established Texas apportioned account for a vehicle upon proper submission of all required documentation, a completed application, and all fees for either:

(I) Texas title as prescribed by Transportation Code, Chapter 501 and Subchapter A of this chapter (relating to Motor Vehicle Titles); or

(II) registration receipt to evidence title for registration purposes only (Registration Purposes Only) as provided for in Transportation Code, §501.029 and §217.24 of this title (relating to Vehicle Last Registered in Another Jurisdiction).

(ii) Title application. A registrant who is applying for a Texas title as provided for in clause (i)(I) of this subparagraph and is requesting authorization for a temporary cab card, must submit to a Regional Service Center a photocopy of the title application receipt issued by the county tax assessor-collector's office.

(iii) Registration Purposes Only. A registrant who is applying for Registration Purposes Only under clause (i)(II) of this subparagraph and is requesting authorization for a temporary cab card, must submit an application and all additional original documents or copies of original documents required by the director to a Regional Service Center.

(iv) Department approval. On department approval of the submitted documents, the department will send notice to the registrant to finalize the transaction and make payment of applicable registration fees.

(v) Finalization and payment of fees. To finalize the transaction and print the temporary cab card, the registrant may compute the registration fees through the department's apportioned registration software application, TxFLEET [~~TxIRP~~] system, and:

(I) make payment of the applicable registration fees to the department as provided by §209.23 of this title; and

(II) afterwards, mail or deliver payment of the title application fee in the form of a check, certified cashier's check, or money order payable to the county tax assessor-collector in the registrant's county of residency and originals of all copied documents previously submitted.

(vi) Deadline. The original documents and payment must be received by the Regional Service Center within 72-hours after the time that the office notified the registrant of the approval to print a temporary cab card as provided in clause (iv) of this subparagraph.

(vii) Failure to meet deadline. If the registrant fails to submit the original documents and required payment within the time prescribed by clause (vi) of this subparagraph, the registrant's privilege to use this expedited process to obtain a temporary cab card will be denied by the department for a period of six months from the date of approval to print the temporary cab card.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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43 TAC §217.34

Statutory Authority. The department proposes a repeal to Chapter 217 under Transportation Code §551.202, which identifies the operation on roadways of electric personal assistive mobility devices.

Cross Reference to Statute. The proposed repeal would implement Transportation Code §551.202, §217.34, Electric Personal Assistive Mobility Devices.

§217.34. Electric Personal Assistive Mobility Device.

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SUBCHAPTER C. REGISTRATION AND TITLE SYSTEMS

43 TAC §§217.71, 217.74, 217.75

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department proposes amendments to Chapter 217 under Transportation Code §502.0021, which gives the department authority to adopt rules to administer Transportation Code Chapter 502, Registration of Vehicles; Transportation Code §502.040, which authorizes the department to prescribe the process and procedures for applying for a motor vehicle registration; Transportation Code §502.059, which authorizes the department to adopt rules providing for an automated registration process; Transportation Code §520.003, which authorizes the department to adopt rules to administer Transportation Code §520, Miscellaneous Provisions; Transportation Code §520.004, which authorizes the department to adopt rules to establish standards for uniformity and service quality for counties conducting registration and titling services; Transportation Code §520.0055, as created by HB 718, gives the department authority to mandate motor vehicle dealers use a department designated electronic system to submit title and registration applications to county tax assessor-collectors for motor vehicle transactions; and Transportation Code §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout the this preamble.

CROSS REFERENCE TO STATUTE. The proposed amendments would implement Transportation Code §§502.0021, 502.040, 502.059, 520.003, 520.004, 520.0055, and 1002.

§217.71. Automated and Web-Based Vehicle Registration and Title Systems.

(a) Purpose.

(1) Transportation Code, Chapters 501 and 502, charge the department with the responsibility for issuing titles and registering vehicles operating on the roads, streets, and highways of the state.

(2) To provide a more efficient, cost-effective system for registering and titling vehicles, submitting title and registration records to county tax assessor-collectors and the department, maintaining records, improving inventory control of accountable items, and collecting and reporting of applicable fees consistent with those statutes, the department has designed:

(A) an automated system known as the registration and title system. This system expedites registration and titling processes, provides a superior level of customer service to the owners and operators of vehicles, and facilitates availability of the department's motor vehicle records for official law enforcement needs. Automated equipment compatible with the registration and title system is indispensable to the operational integrity of the system; and

(B) a web-based system known as webDEALER. This system expedites registration and titling processes, provides a superior level of customer service to the owners and operators of vehicles, and facilitates availability of the department's motor vehicle records for official law enforcement needs.

(3) This subchapter prescribes the policies and procedures under which the department may make the automated equipment available to a county tax assessor-collector as designated agent of the state for processing title and vehicle registration documents and the policies and procedures [~~for users who opt~~] to use webDEALER.

(b) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Automated equipment--Equipment associated with the operation of the registration and titling system, including, but not limited to, microcomputers, printers, software, and cables.

(2) Department--The Texas Department of Motor Vehicles.

(3) Executive director--The executive director of the Texas Department of Motor Vehicles.

(4) Fair share allocation--The amount of automated equipment determined by the department to be effective at providing a reasonable level of service to the public. This amount will be determined on transaction volumes, number of county substations, and other factors relating to a particular county's need.

(5) RTS--The department's registration and title system.

(6) Title application--A form as defined by §217.2 of this title (relating to Definitions), and includes the electronic process provided by the department that captures the information required by the department to create a motor vehicle title record.

(7) webDEALER--The department's web-based titling and registration system used to submit title applications to county tax assessor-collectors and the department. This term includes any other web-based system which facilitates electronic submission of title applications, including webSALVAGE, eTITLE, and webLIEN.

§217.74. webDEALER Access, Use, and Training [~~Access to and Use of webDEALER~~].

(a) Each county tax assessor-collector shall request access to, and accept title applications submitted through, webDEALER. A county tax assessor-collector must utilize webDEALER in order to accept a title application in the county as provided by subsections (b) and (c) of this section.

(b) Except as provided in subsection (c) of this section, a person who wishes to become a user of webDEALER must contact each entity to whom they submit title applications for authorization to utilize webDEALER. A user must receive authorization from each entity, including each county tax assessor-collector, to whom the user submits title applications. Title applications submitted to the department require the authorization by the department.

(c) A motor vehicle dealer who holds [~~holder of~~] a general distinguishing number (holder) [~~who wishes to become a user of webDEALER~~] must contact each county tax assessor-collector to whom they submit title applications for webDEALER access. The county must provide the holder access. A holder must obtain access from each county [~~tax assessor-collector~~] to whom the user submits title applications. All active holders must obtain access to webDEALER in advance of July 1, 2025. If a holder does not have webDEALER access by April 30, 2025, the department may provide the holder access to webDEALER in the county where the holder is located.

(d) A county tax assessor-collector may authorize a deputy appointed by the county tax assessor-collector in accordance with subchapter H of this chapter (relating to Deputies) to utilize webDEALER.

(e) An entity or [~~A~~] person authorized under subsection (b) of this section may have their authorization to use webDEALER revoked, rescinded, or cancelled at any time, with no notice, at the discretion of a county tax assessor-collector or the department.

(f) When submitting a title application through webDEALER, a user must:

(1) stamp the word "SURRENDERED" across the front face and the next open assignment or reassignment space of any secure title document or other acceptable ownership evidence as determined by the department in:

(A) arial font;

(B) black ink; and

(C) a size of 1/4" height x 2 1/4" length;

(2) retain the physical document described in paragraph (1) of this subsection for a minimum of four calendar years from the date of submitting a scanned copy of the stamped title document using the webDEALER system; and

(3) submit any documents required to be submitted with the title application with a scanned resolution of at least 200 dots per inch (DPI).

(g) Required webDEALER training. A holder described under subsection (c) and required to process title and registration transactions through webDEALER in accordance with Transportation Code, Section 520.0055, and each user accessing webDEALER under the holder's account must complete webDEALER training conducted by the department by April 30, 2025. New users created on or after April 30, 2025, must complete webDEALER training before being given webDEALER permissions.

(1) Required training will include, at a minimum, training regarding transactions performed in webDEALER and proper use of the system.

(2) A holder who has had access to webDEALER for more than six months and submitted more than 100 transactions within the system as of October 1, 2024, is not required to take the webDEALER training under this section.

(3) Failure for holders and users accessing webDEALER under the holder's account to complete the required training as outlined in this section shall result in denial of access to webDEALER.

§217.75. Required Training on the Registration and Title System and Identification of Fraud.

(a) Required training. A person performing registration or titling services through RTS, including a department employee, department contractor, county tax assessor-collector employee, or full service deputy as defined by §217.162(6) of this title (relating to Definitions), must complete a training program as prescribed by this section. Required training will include, at a minimum:

(1) training regarding transactions performed in RTS; and

(2) identification of fraudulent activity related to vehicle registration and titling.

(b) Online training. The department will make required training for county tax assessor-collector employees and full service deputies available through the department's online training system.

(c) Registration and Title System training for county tax assessor-collector staff and full service deputies. To satisfy the training requirements under subsection (a)(1) of this section, a county tax assessor-collector employee or full service deputy must complete each training course associated with the permissions that person is assigned in RTS. A person completes a training course when the person obtains a score of at least 80 percent on the course test, and the training is verified. This section does not limit the number of times or how often a person may take a training course or test.

(1) A county tax assessor-collector or county tax assessor-collector's system administrator must create accounts for and assign permissions in RTS to each employee or full service deputy who will be given access to RTS based on that person's job duties as determined by the county tax assessor-collector or the county tax assessor-collector's system administrator.

(2) The department will assign training content for specific permissions in RTS.

(3) A person must take required training using the person's individually assigned training identifier for the department's online training system.

(4) The department will enable a permission on completion of required training.

[~~(5) A person with permissions in RTS on or before the effective date of this section must complete required training under this section by August 31, 2020. A person who has not been assigned permissions in RTS on or before the effective date of this section must complete all required training before permissions are enabled by the department.~~]

(5) [~~(6)~~] If new training is made available for a new or existing permission [~~after August 31, 2020,~~] a person with permissions enabled before the new training is made available must complete the required training within 120 days of the department's notification that the training is available. A county employee, or full service deputy, who is on leave on the date of the department's notification that the new training is available, for at least 120 days thereafter, and due to circumstances beyond that person's control, as determined by the county tax assessor-collector may have an additional 14 days upon returning to work to complete the new training.

(d) Failure to complete required training.

(1) Except as provided in paragraph (2) of this subsection, the department will disable a permission if a person fails to complete required training for the permission within the timeframes required by this section.

(2) The department will not disable a permission for a county tax assessor-collector employee or a full service deputy if the person timely submits their score for each required training course; however, the department will disable the person's permission if the department determines that the submitted score is not at least 80 percent.

(3) A disabled permission may be enabled by using the process to complete training and enable permissions in subsection (c) of this section.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER D. NONREPAIRABLE AND SALVAGE MOTOR VEHICLES

43 TAC §§217.81 - 217.86, 217.88, 217.89

STATUTORY AUTHORITY. The department proposes amendments to Chapter 217 under Transportation Code, §501.0041, which gives the department authority to adopt rules to administer Transportation Code, Chapter 501, Certificate of Title Act;

Transportation Code, §501.030, which authorizes the department to adopt rules governing identification number inspections for motor vehicles brought into the state; Transportation Code, §501.0925, which authorizes the department to adopt rules governing the issuance of titles to insurance companies; Transportation Code, §501.097, which authorizes the department to prescribe the process and procedures for applying for nonrepairable and salvage vehicle titles; Transportation Code, §501.1003, which authorizes the department to require salvage dealers to report nonrepairable and salvage motor vehicles that are dismantled, scrapped or destroyed and to surrender ownership documents for such vehicles; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

CROSS REFERENCE TO STATUTE. The proposed amendments would implement Transportation Code §§501.0041, 501.030, 501.0925, 501.097, 501.1003, and 1002.001.

§217.81. Purpose and Scope.

Transportation Code, Chapter 501, Subchapter E, charges the department with the responsibility of issuing titles for non repairable[~~non-repairable~~] and salvage motor vehicles [~~vehicle titles~~] and titles [~~certificates of title~~] for rebuilt salvage motor vehicles. For the department to efficiently and effectively issue the vehicle titles [~~and certificates of title~~], maintain records, collect the applicable fees, and ensure the proper application by motor vehicle owners, this subchapter prescribes the policies and procedures for the application for and issuance of vehicle titles for non repairable [~~non-repairable~~] and salvage motor vehicles, and titles for rebuilt salvage motor vehicles.

§217.82. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Casual sale--sale as defined by Transportation Code, §501.091(2) [~~The sale by a salvage vehicle dealer, insurance company, or salvage pool operator of not more than five nonrepairable or salvage motor vehicles to the same person during a calendar year. The term does not include a sale to a salvage vehicle dealer or the sale of an export-only motor vehicle to a person who is not a resident of the United States~~].

(2) Certificate of title--title as defined by Transportation Code, §501.002(1-a) [~~A written instrument that may be issued solely by and under the authority of the department and that reflects the transferor, transferee, vehicle description, license plate and lien information, and rights of survivorship agreement as specified in Subchapter A of this chapter or as required by the department~~].

(3) Application for Title--A form prescribed by the director of the department's Vehicle Titles and Registration Division that reflects the information required by the department to create a motor vehicle title record.

(4) Damage--damage as defined by Transportation Code, §501.091(3) [~~Sudden damage to a motor vehicle caused by the motor vehicle being wrecked, burned, flooded, or stripped of major component parts. The term does not include gradual damage from any cause, sudden damage caused by hail, or any damage caused only to the exterior paint of the motor vehicle~~].

(5) Date of sale--The date of the transfer of possession of a specific vehicle from a seller to a purchaser.

(6) Department--The Texas Department of Motor Vehicles.

(7) Export-only sale--The sale of a nonrepairable or salvage motor vehicle, by a salvage vehicle dealer, including a salvage pool operator acting as agent for an insurance company, or a governmental entity, to a person who resides outside the United States.

(8) Flood damage--A title remark that is initially indicated on a nonrepairable or salvage vehicle title to denote that the damage to the vehicle was caused exclusively by flood and that is carried forward on subsequent title issuance.

(9) Insurance company--as defined by Transportation Code, §501.091(5) [~~A person authorized to write automobile insurance in this state or an out-of-state insurance company that pays a loss claim for a motor vehicle in this state~~].

(10) Manufacturer's certificate of origin--A form prescribed by the department showing the original transfer of a new motor vehicle from the manufacturer to the original purchaser, whether importer, distributor, dealer, or owner, and when presented with an application for title, showing, on appropriate forms prescribed by the department, each subsequent transfer between distributor and dealer, dealer and dealer, and dealer and owner.

(11) Metal recycler--A person as defined by Transportation Code §501.091(7). [~~who:~~]

[~~(A) is predominately engaged in the business of obtaining ferrous or nonferrous metal that has served its original economic purpose to convert the metal, or sell the metal for conversion, into raw material products consisting of prepared grades and having an existing or potential economic value;~~]

[~~(B) has a facility to convert ferrous or nonferrous metal into raw material products consisting of prepared grades and having an existing or potential economic value, by a method other than the exclusive use of hand tools, including the processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content of the metal; and~~]

[~~(C) sells or purchases the ferrous or nonferrous metal solely for use as raw material in the production of new products.~~]

(12) Motor vehicle--A vehicle described by Transportation Code, §501.002(17).

(13) Nonrepairable motor vehicle--A motor vehicle as defined by Transportation Code, §501.091(9).

(14) Nonrepairable vehicle title--title as defined by Transportation Code, §501.091(10) [~~A document that evidences ownership of a nonrepairable motor vehicle~~].

(15) Nonrepairable record of title--title as defined by Transportation Code, §501.091(10-a).

(16) [~~(15)~~] Out-of-state buyer--buyer as defined by Transportation Code, §501.091(11) [~~A person licensed in an automotive business by another state or jurisdiction if the department has listed the holders of such a license as permitted purchasers of salvage motor vehicles or nonrepairable motor vehicles based on substantially similar licensing requirements and on whether salvage vehicle dealers licensed in Texas are permitted to purchase salvage motor vehicles or nonrepairable motor vehicles in the other state or jurisdiction~~].

(17) [~~(16)~~] Out-of-state ownership document--A negotiable document issued by another jurisdiction that the department considers sufficient to prove ownership of a nonrepairable or salvage motor vehicle and to support issuance of a comparable Texas certificate of title for the motor vehicle. The term does not include a title issued by the department, including a:

(A) regular certificate of title;

(B) nonrepairable vehicle title;

(C) salvage vehicle title;

(D) salvage certificate;

(E) Certificate of Authority to Demolish a Motor Vehicle; or

(F) any other ownership document issued by the department.

(18) [~~(17)~~] Person--An individual, partnership, corporation, trust, association, or other private legal entity.

(19) [~~(18)~~] Rebuilt salvage [~~certificate of~~] title--A [~~regular certificate of~~] title evidencing ownership of a nonrepairable motor vehicle that was issued a nonrepairable vehicle title prior to September 1, 2003, or salvage motor vehicle that has been rebuilt.

(20) [~~(19)~~] Salvage motor vehicle--A motor vehicle, regardless of the year model:

(A) that [~~is~~]:

(i) is damaged or is missing a major component part to the extent that the cost of repairs exceeds the actual cash value of the motor vehicle immediately before the damage; or

(ii) [~~damaged and~~] comes into this state under an out-of-state ownership document that states on its face "accident damage," "flood damage," "inoperable," "rebuildable," "salvageable," or similar notation, and is not an out-of-state ownership document with a "rebuilt," "prior salvage," or similar notation, or a nonrepairable motor vehicle; and

(B) does not include:

(i) a motor vehicle for which an insurance company has paid a claim for repairing hail damage, or theft, unless the motor vehicle was damaged during the theft and before recovery to the extent that the cost of repair exceeds the actual cash value of the motor vehicle immediately before the damage;

(ii) the cost of materials or labor for repainting the motor vehicle; or

(iii) sales tax on the total cost of repairs.

(21) [~~(20)~~] Salvage vehicle dealer--dealer as defined by Transportation Code, §501.091(17) [~~A person engaged in this state in the business of acquiring, selling, dismantling, repairing, rebuilding, reconstructing, or otherwise dealing in nonrepairable motor vehicles or salvage motor vehicles or used parts, including a person who is in the business of a salvage vehicle dealer, regardless of whether the person holds a license issued by the department to engage in the business. The term does not include a person who casually repairs, rebuilds, or reconstructs fewer than three salvage motor vehicles in the same calendar year~~].

(22) [~~(21)~~] Salvage vehicle title--title as defined by Transportation Code, §501.091(16) [~~A document issued by the department that evidences ownership of a salvage motor vehicle~~].

(23) Salvage record of title--title as defined by Transportation Code, §501.091(16-a).

§217.83. Requirement for Nonrepairable [~~Non-repairable~~] or Salvage Vehicle Title or Nonrepairable or Salvage Record of Title.

(a) Determination of condition of vehicle.

(1) Salvage motor vehicle. When a vehicle is damaged, the actual cash value of the motor vehicle immediately before the damage and the cost of repairs shall be used to determine whether the damage is sufficient to classify the motor vehicle as a salvage motor vehicle.

(2) Non repairable [~~Non-repairable~~] motor vehicle. When a vehicle is damaged, the actual cash value of the motor vehicle immediately before the damage and the cost of repairs, or any [~~alternate~~] method commonly used by the insurance industry, shall be used to determine whether the damage is sufficient to classify the motor vehicle as a non repairable [~~non-repairable~~] motor vehicle.

(3) The actual cash value of the motor vehicle is the market value of a motor vehicle as determined:

(A) from publications commonly used by the automotive and insurance industries to establish the values of motor vehicles; or

(B) if the entity determining the value is an insurance company, by any other procedure recognized by the insurance industry, including market surveys, that is applied in a uniform manner.

(4) The cost of repairs, including parts and labor, shall be determined by:

(A) using a manual of repair costs or other instrument that is generally recognized and used in the motor vehicle industry to determine those costs; or

(B) an estimate of the actual cost of the repair parts and the estimated labor costs computed by using hourly rate and time allocations that are reasonable and commonly assessed in the repair industry in the community in which the repairs are performed.

(5) The cost of repairs does not include:

(A) the cost of:

(i) repairs related to gradual damage to a motor vehicle;

(ii) repairs related to hail damage; or

(iii) materials and labor for repainting or when the damage is solely to the exterior paint of the motor vehicle; or

(B) sales tax on the total cost of repairs.

(b) Who must apply.

(1) An insurance company licensed to do business in this state that acquires ownership or possession of a nonrepairable [~~non-repairable~~] or salvage motor vehicle that is covered by a [~~certificate of~~] title issued by this state or a manufacturer's certificate of origin shall obtain a nonrepairable [~~non-repairable~~] or salvage vehicle title or nonrepairable or salvage record of title, as provided by §217.84 of this title (relating to Application for Nonrepairable [~~Non-repairable~~] or Salvage Vehicle Title or Nonrepairable or Salvage Record of Title), before selling or otherwise transferring the nonrepairable [~~non-repairable~~] or salvage motor vehicle, except as provided by subsection (c) of this section.

(2) A salvage vehicle dealer shall obtain a Nonrepairable [~~Non-repairable~~] or Salvage Vehicle Title or Nonrepairable or Salvage Record of Title, or comparable out-of-state ownership document, before selling or otherwise transferring the motor vehicle, except as provided by §217.88(b) of this title (relating to Sale, Transfer, or Release of Ownership of a Nonrepairable [~~Non-repairable~~] or Salvage Motor Vehicle).

(3) A person, other than an insurance company or salvage vehicle dealer, who acquires ownership of a nonrepairable [~~non-repairable~~] or salvage motor vehicle that has not been issued a

nonrepairable [~~non-repairable~~] vehicle title, a salvage vehicle title, or a comparable out-of-state ownership document, shall obtain a nonrepairable [~~non-repairable~~] or salvage vehicle title or nonrepairable or salvage record of title, as provided by §217.84, before selling or otherwise transferring the motor vehicle, unless the motor vehicle will be dismantled, scrapped, or destroyed.

(c) Owner-retained vehicles.

[~~(1) An owner may retain a vehicle only as provided by this subsection and if the vehicle was titled in Texas before it became a salvage or non-repairable vehicle.~~]

(1) [~~(2)~~] When an insurance company pays a claim on a nonrepairable [~~non-repairable~~] or salvage motor vehicle and does not acquire ownership of the motor vehicle, the company shall submit through webDEALER to the department before the 31st day after the date of the payment of the claim, on a form prescribed by the department, a report stating that:

(A) the insurance company has paid a claim on the nonrepairable [~~non-repairable~~] or salvage motor vehicle; and

(B) the insurance company has not acquired ownership of the nonrepairable [~~non-repairable~~] or salvage motor vehicle.

(2) [~~(3)~~] Upon receipt of the report described in paragraph (2) of this subsection, the department will place an appropriate notation on the motor vehicle record to prevent registration and transfer of ownership prior to the issuance of a salvage or nonrepairable [~~non-repairable~~] vehicle title or salvage or nonrepairable record of title.

(3) [~~(4)~~] The owner who retained the nonrepairable [~~non-repairable~~] or salvage motor vehicle to which this subsection applies shall obtain a nonrepairable [~~non-repairable~~] or salvage vehicle title or nonrepairable or salvage record of title, as provided by §217.84, before selling or otherwise transferring the nonrepairable [~~non-repairable~~] or salvage motor vehicle.

[~~(5) Until a non-repairable or salvage vehicle title, or a comparable out-of-state ownership document, has been issued for an owner-retained non-repairable or salvage vehicle, the owner of the motor vehicle may not sell or otherwise transfer ownership of the vehicle.~~]

(4) [~~(6)~~] The owner of an owner retained nonrepairable [~~non-repairable~~] or salvage motor vehicle may not operate or permit operation of the motor vehicle on a public highway, until the motor vehicle is rebuilt, titled as a rebuilt salvage motor vehicle or rebuilt nonrepairable [~~non-repairable~~] motor vehicle, if applicable, and is registered in accordance with Subchapter B of this chapter.

(d) Self-insured vehicles. The owner of a nonrepairable [~~non-repairable~~] or salvage motor vehicle that is self-insured and that has been removed from normal operation by the owner shall apply to the department for a nonrepairable [~~non-repairable~~] or salvage vehicle title or nonrepairable or salvage record of title, as provided by §217.84, before the 31st day after the damage occurred, and before selling or otherwise transferring ownership of the nonrepairable [~~non-repairable~~] or salvage motor vehicle.

(e) Casual sales. A salvage vehicle dealer, salvage pool operator, or insurance company that acquires a nonrepairable [~~non-repairable~~] or salvage motor vehicle shall apply to the department for a nonrepairable [~~non-repairable~~] or salvage vehicle title or nonrepairable or salvage record of title, in accordance with §217.84, prior to offering the motor vehicle for sale in a casual sale.

(f) Export-only vehicles. A salvage vehicle dealer, including a salvage pool operator acting as agent for an insurance company, or governmental entity that acquires a nonrepairable [~~non-repairable~~] or salvage motor vehicle and offers it for sale to a non-United States resident shall apply to the department for a nonrepairable [~~non-repairable~~] or salvage vehicle title, as provided by §217.84, before selling or otherwise transferring the nonrepairable [~~non-repairable~~] or salvage motor vehicle and before delivery of the nonrepairable [~~non-repairable~~] or salvage motor vehicle to the buyer. A salvage vehicle dealer or governmental entity shall maintain records of all export-only nonrepairable [~~non-repairable~~] or salvage motor vehicle sales as provided by §217.88(g).

(g) Voluntary application. A person who owns or acquires a motor vehicle that is not a nonrepairable [~~non-repairable~~] or salvage motor vehicle may voluntarily, and on proper application, as provided by §217.84, apply for a nonrepairable [~~non-repairable~~] or salvage vehicle title or nonrepairable or salvage record of title.

§217.84. Application for Nonrepairable or Salvage Vehicle Title or Nonrepairable or Salvage Record of Title.

(a) Place of application. The owner of a nonrepairable or salvage motor vehicle who is required to obtain or voluntarily chooses to obtain a nonrepairable or salvage vehicle title, as provided by §217.83 of this title (relating to Requirement for Nonrepairable [~~Non-repairable~~] or Salvage Vehicle Title or Nonrepairable or Salvage Record of Title), shall apply for a nonrepairable or salvage vehicle title or nonrepairable or salvage record of title by submitting an application, the required accompanying documentation, and the statutory fee to the department.

(b) Information on application. An applicant for a nonrepairable or salvage vehicle title or nonrepairable or salvage record of title shall submit an application on a form prescribed by the department. A completed form, in addition to any other information required by the department, must include:

(1) the name and current address of the owner;

(2) a description of the motor vehicle, including the model year, make, body style, and vehicle identification number;

(3) a statement describing whether the motor vehicle is a nonrepairable or salvage motor vehicle;

(4) whether the damage was caused exclusively by flood;

(5) a description of the damage to the motor vehicle that discloses which major component part(s) must be repaired or replaced as a result of the damage to the part(s);

(6) the odometer reading and brand, or the word "exempt" if the motor vehicle is exempt from federal and state odometer disclosure requirements, if the motor vehicle is a salvage motor vehicle;

(7) the name and mailing address of any lienholder and the date of lien, as provided by subsection (e) of this section; and

(8) the signature of the applicant or the applicant's authorized agent and the date the [~~certificate of~~] title application was signed.

(c) Accompanying documentation. A nonrepairable or salvage vehicle title or nonrepairable or salvage record of title application must be supported, at a minimum, by:

(1) evidence of ownership, as described by subsection (d)(1) or (3) of this section, if the applicant is an insurance company that is unable to locate one or more of the owners;

(2) an odometer disclosure statement properly executed by the seller of the motor vehicle and acknowledged by the purchaser, if the motor vehicle is less than 10 model years old and the motor vehicle is a salvage motor vehicle; and

(3) a release of any liens.

(d) Evidence of nonrepairable or salvage motor vehicle ownership.

(1) Evidence of nonrepairable or salvage motor vehicle ownership properly assigned to the applicant must accompany the application for a nonrepairable or salvage vehicle title or nonrepairable or salvage record of title, except as provided by paragraph (2) of this subsection. Evidence must include documentation sufficient to show ownership to the nonrepairable or salvage motor vehicle, such as:

(A) a Texas [~~Certificate of~~] Title;

(B) a certified copy of a Texas [~~Certificate of~~] Title;

(C) a manufacturer's certificate of origin;

(D) a Texas Salvage Certificate;

(E) a nonrepairable vehicle title or record of title;

(F) a salvage vehicle title or record of title;

(G) a comparable ownership document issued by another jurisdiction, except that if the applicant is an insurance company, evidence must be provided indicating that the insurance company is:

(i) licensed to do business in Texas; or

(ii) not licensed to do business in Texas, but has paid a loss claim for the motor vehicle in this state; or

(H) a photocopy of the inventory receipt or a title and registration verification evidencing surrender to the department of the negotiable evidence of ownership for a motor vehicle as provided by §217.86 of this title (relating to Dismantling, Scrapping, or Destruction of Motor Vehicles), and if the evidence of ownership surrendered was from another jurisdiction, a photocopy of the front and back of the surrendered evidence of ownership.

(2) An insurance company that acquires ownership or possession of a nonrepairable or salvage motor vehicle through payment of a claim may apply for a nonrepairable or salvage vehicle title to be issued in the insurance company's name without obtaining an ownership document or if it received an ownership document without the proper assignment of the owner if the company is unable to obtain a title from the owner, in accordance with paragraph (1) of this subsection, and the application is not made earlier than the 30th day after the date of payment of the claim. The application must also include:

(A) a statement that the insurance company has provided at least two written notices to the owner and any lienholder attempting to obtain the title or proper assignment of title for the motor vehicle;

(B) a statement that the insurance company paid a loss claim for the vehicle that was accepted; and

(C) any unassigned or improperly assigned title in the insurance company's possession.

(3) An insurance company that acquires, through payment of a claim, ownership or possession of a salvage motor vehicle or nonrepairable motor vehicle covered by an out-of-state ownership document may obtain a salvage [~~vehicle title~~] or nonrepairable vehicle title or salvage or nonrepairable record of title in accordance with paragraph (1) or (2) of this subsection if:

(A) the motor vehicle was damaged, stolen, or recovered in this state; or

(B) the motor vehicle owner from whom the company acquired ownership resides in this state.

(4) A salvage pool operator may apply for title consistent with Transportation Code, §501.0935. [~~in the name of the salvage pool operator by providing to the department:~~]

[~~(A) documentation from the insurance company that:~~]

~~*(i)* the salvage pool operator, on request of an insurance company, was asked to take possession of the motor vehicle subject to an insurance claim and the insurance company subsequently denied coverage or did not take ownership of the vehicle; and~~]

~~*(ii)* the name and address of the owner of the motor vehicle and the lienholder, if any; and~~]

[~~(B) proof that the salvage pool operator, before the 31st day after receiving the information from the insurance company, sent a notice to the owner and any lienholder informing them that:~~]

~~*(i)* the motor vehicle must be removed from the location specified in the notice not later than the 30th day after the date the notice is mailed; and~~]

~~*(ii)* if the motor vehicle is not removed within the time specified in the notice, the salvage pool operator will sell the motor vehicle and retain from the proceeds any costs actually incurred by the operator in obtaining, handling, and disposing of the motor vehicle, except for charges:~~]

~~*(I)* that have been or are subject to being reimbursed by a third party; and~~]

~~*(II)* for storage or impoundment of the motor vehicle.~~]

(5) Proof of notice under this subsection consists of:

(A) the validated receipts for registered or certified mail and return receipt or an electronic certified mail receipt, including signature receipt; and

(B) any unopened certified letters returned by the post office as unclaimed, undeliverable, or with no forwarding address.

(e) Recordation of lien on nonrepairable and salvage vehicle titles. If the motor vehicle is a salvage motor vehicle, a new lien or a currently recorded lien may be recorded on the salvage vehicle title. If the motor vehicle is a nonrepairable motor vehicle, only a currently recorded lien may be recorded on the nonrepairable vehicle title.

(f) Issuance. Upon receipt of a completed nonrepairable or salvage vehicle title application, accompanied by the statutory application fee and the required documentation, the department will, before the sixth business day after the date of receipt, issue a nonrepairable or salvage vehicle title or nonrepairable or salvage record of title, as appropriate.

(1) If the condition of salvage is caused exclusively by flood, a "Flood Damage" notation will be reflected on the face of the document and will be carried forward upon subsequent title issuance.

(2) If a lien is recorded on a nonrepairable or salvage vehicle title, the vehicle title will be mailed to the lienholder. For proof of ownership purposes, the owner will be mailed a receipt or printout of the newly established motor vehicle record, indicating a lien has been recorded.

(3) A nonrepairable vehicle title will state on its face that the motor vehicle may:

(A) not be repaired, rebuilt, or reconstructed;

(B) not be issued a regular [~~certificate of~~] title or registered in this state;

(C) not be operated on a public highway; and

(D) may only be used as a source for used parts or scrap metal.

§217.85. Replacement of Nonrepairable [~~Non-repairable~~] or Salvage Motor Vehicle Ownership Documents.

(a) Location. Applications for certified copies of ownership documents for nonrepairable [~~non-repairable~~] or salvage motor vehicles will only be processed at the department's Austin headquarters office.

(b) Notation. The certified copy will contain the words "Certified Copy" and the date issued, and the motor vehicle record will be noted accordingly until ownership of the nonrepairable [~~non-repairable~~] or salvage motor vehicle is transferred. Then the notation will be eliminated from the new [~~certificate of~~] title and from the motor vehicle record.

(c) Replacement of nonrepairable [~~non-repairable~~] or salvage vehicle titles. If a nonrepairable [~~non-repairable~~] or salvage vehicle title is lost or destroyed, the department will issue a certified copy of the ownership document type originally issued, except as provided by subsection (d)(2) of this section, to the motor vehicle owner, lienholder, or verifiable agent on submission of verifiable proof and payment of the appropriate fee as provided in §217.7 of this title (relating to Replacement of Title).

(d) Replacement of nonrepairable [~~non-repairable~~] or salvage ownership documents issued prior to September 1, 2003.

(1) If a salvage certificate of title issued by this state prior to September 1, 2003, is lost or destroyed, the department will issue a certified copy of a salvage vehicle title, to the motor vehicle owner, lienholder, or verifiable agent on proper application, submission of verifiable proof, and payment of the appropriate fee as provided in §217.7.

(2) If a nonrepairable [~~non-repairable~~] certificate of title or salvage certificate issued by this state prior to September 1, 2003, is lost or destroyed, the department will issue a salvage vehicle title to the motor vehicle owner, lienholder, or verifiable agent on proper application, submission of verifiable proof, and payment of the appropriate fee as provided in §217.7.

§217.86. Dismantling, Scrapping, or Destruction of Motor Vehicles.

(a) A person who acquires ownership of a nonrepairable [~~non-repairable~~] or salvage motor vehicle for the purpose of dismantling, scrapping, or destruction shall, not later than the 30th day after the motor vehicle was acquired:

(1) submit to the department a report, on a form prescribed by the department:

(A) stating that the motor vehicle will be dismantled, scrapped, or destroyed; and

(B) certifying that all unexpired license plates and registration validation stickers have been removed from the motor vehicle, in accordance with Occupations Code, §2302.252; and

(2) surrender to the department the properly assigned ownership document.

(b) The person shall:

(1) maintain records of each motor vehicle that will be dismantled, scrapped, or destroyed, as provided by Chapter 221, Subchapter D of this title (relating to Records); and

(2) store all unexpired license plates and registration validation stickers removed from those vehicles in a secure location.

(c) The department will issue the person a receipt with surrender of the report and ownership documents.

(d) For purposes of dismantling, scrapping, or destruction, a nonrepairable or salvage motor vehicle may only be transferred to a metal recycler upon issuance of a receipt as provided in subsection (c) of this section. The transfer shall be documented on a form prescribed by the department and be included with the transfer of the vehicle along with the receipt as provided in subsection (c) of this section.

(e) [~~(d)~~] License plates and registration validation stickers removed from vehicles reported under subsection (a)(1) of this section may be destroyed upon receipt of the acknowledged report from the department.

(f) [~~(e)~~] The department will place an appropriate notation on motor vehicle records for which ownership documents have been surrendered to the department.

(g) [~~(f)~~] Not later than 60 days after the motor vehicle is delivered to the metal recycler for purposes of the vehicle being dismantled, scrapped, or destroyed, the person shall report to the department and provide evidence that the motor vehicle has been dismantled, scrapped, or destroyed.

§217.88. Sale, Transfer, or Release of Ownership of a Nonrepairable [~~Non-repairable~~] or Salvage Motor Vehicle.

(a) Sale, transfer or release with [~~With~~] a nonrepairable [~~non-repairable~~] or salvage motor vehicle title or nonrepairable or salvage record of title. The ownership of a motor vehicle for which a nonrepairable [~~non-repairable~~] vehicle title, nonrepairable [~~non-repairable~~] record of title, salvage vehicle title, salvage record of title, or a comparable out-of-state ownership document has been issued, including a motor vehicle that has a "Flood Damage" notation on the title, may be sold, transferred, or released to anyone.

(b) Sale, transfer or release without [~~Without~~]a nonrepairable [~~non-repairable~~] or salvage motor vehicle title or nonrepairable or salvage record of title shall be consistent with Transportation Code, §501.095(a). [~~If a non-repairable vehicle title, non-repairable record of title, salvage vehicle title, salvage record of title, or a comparable out-of-state ownership document has not been issued for a non-repairable or salvage motor vehicle, only a salvage vehicle dealer, used automotive parts recycler, metal recycler, insurance company, or governmental entity may sell, transfer, or otherwise release ownership of the motor vehicle. Such person may only sell, transfer, or otherwise release ownership of a motor vehicle to which this subsection applies to:~~]

[~~(1) a salvage vehicle dealer;~~]

[~~(2) a used automotive parts recycler;~~]

[~~(3) a metal recycler;~~]

[~~(4) a governmental entity; or~~]

[~~(5) an insurance company.~~]

(c) Sale of self-insured nonrepairable [~~non-repairable~~] or salvage motor vehicle. The owner of a self-insured nonrepairable [~~non-repairable~~] or salvage motor vehicle that has been damaged and removed from normal operation shall obtain a nonrepairable [~~non-repairable~~] or salvage vehicle title or nonrepairable or salvage record of title before selling or otherwise transferring ownership of the motor vehicle.

(d) Casual sales. A salvage vehicle dealer, salvage pool operator, or insurance company may sell up to five nonrepairable [~~non-repairable~~] or salvage motor vehicles, for which nonrepairable [~~non-repairable~~] or salvage vehicle titles or nonrepairable or salvage record of title have been issued, to a person, not to include those specified in

Transportation Code, §501.091(2)(A-C), in a casual sale during a calendar year.

(e) Records of casual sales.

(1) A salvage vehicle dealer, salvage pool operator, or insurance company must maintain records of each casual sale made during the previous 36 months, in accordance with Transportation Code, §501.108, that at a minimum contain:

(A) the date of sale;

(B) the sales price;

(C) the name and address of the purchaser;

(D) a legible photocopy of a form of current photo identification as specified in §217.7(b) of this title (Relating to Replacement of Title) [~~the purchaser's government-issued photo identification~~];

(E) the form of identification provided, the identification document number, and the name of the jurisdiction that issued the identification document;

(F) the description of the motor vehicle, including the vehicle identification number, model year, make, body style, and model;

(G) a photocopy of the front and back of the properly assigned ownership document provided to the purchaser; and

(H) the purchaser's certification, on a form provided by the department, that the purchase of motor vehicles in a casual sale is not intended to circumvent the provisions of Transportation Code, Chapter 501 (relating to Certificates of Title) and Occupations Code, Chapter 2302 (relating to Salvage Vehicle Dealers).

(2) Records may be maintained on a form provided by the department or in an electronic format.

(3) Records must be maintained on the business premises of the seller, and shall be made available for inspection upon request.

(f) Export-only sales.

(1) In accordance with Transportation Code, §501.099, only a licensed salvage vehicle dealer, including a salvage pool operator acting as agent for an insurance company, or governmental entity may sell a nonrepairable [~~non-repairable~~] or salvage motor vehicle to a person who resides outside the United States, and only:

(A) when a nonrepairable [~~non-repairable~~] or salvage vehicle title has been issued for the motor vehicle prior to offering it for export-only sale; and

(B) prior to the sale, the seller obtains a legible photocopy of a government-issued photo identification of the purchaser that can be verified by law enforcement, issued by the jurisdiction in which the purchaser resides that may consist of:

(i) a passport;

(ii) a driver's license;

(iii) consular identity document;

(iv) national identification certificate or identity document; or

(v) other government-issued identification that includes the name of the jurisdiction issuing the document, the purchaser's full name, foreign address, date of birth, photograph, and signature.

(2) The seller must obtain the purchaser's certification, on a form prescribed by the department, that the purchaser will remove the motor vehicle from the United States and will not return the motor vehicle to any state of the United States as a motor vehicle titled or registered under its manufacturer's vehicle identification number.

(3) The seller must provide the buyer with a properly assigned nonrepairable [~~non-repairable~~] or salvage vehicle title.

(4) The seller must stamp FOR EXPORT ONLY and the seller's salvage vehicle dealer license number or the governmental entity's name, whichever applies, on the face of the title and on any unused reassignments on the back of the title.

(g) Records of export-only sales.

(1) A salvage vehicle dealer or governmental entity that sells a nonrepairable [~~non-repairable~~] or salvage motor vehicle for export-only must maintain records of all export-only sales until the third anniversary of the date of the sale.

(2) Records of each sale must include:

(A) a legible copy of the stamped and properly assigned nonrepairable [~~non-repairable~~] or salvage vehicle title;

(B) the buyer's certified statement required by subsection (f)(2) of this section;

(C) a legible photocopy [~~copy~~] of a form of photo identification as specified in subsection (f)(1)(B) of this section [~~the buyer's photo identification document~~];

(D) a legible copy of any other documents related to the sale of the motor vehicle; and

(E) a listing of each motor vehicle sold for export-only that states the:

(i) date of sale;

~~*(ii)* name and address of the seller;~~

(ii) [~~(iii)~~] name [~~and address~~] of the purchaser;

(iii) [~~(iv)~~] purchaser's identification document number;

(iv) [~~(v)~~] name of the country that issued the identification document;

(v) [~~(vi)~~] the form of identification provided by the purchaser; and

(vi) [~~(vii) description of the motor vehicle that includes the year, make, model, and~~] vehicle identification number of the motor vehicle.

(3) The listing required by paragraph (2)(E) of this subsection must be maintained either on a form provided by the department or in an electronic format approved by the department.

(4) The salvage vehicle dealer or governmental entity shall submit the listing prescribed by paragraph (2)(E) of this subsection to the department within 30 days from the date of sale.

(5) Upon receipt of the listing prescribed by paragraph (2)(E) of this subsection, the department will place an appropriate notation on the motor vehicle record to identify it as a motor vehicle sold for export-only that may not be operated, retitled, or registered in this state.

§217.89. Rebuilt Salvage Motor Vehicles.

(a) Filing for title. When a salvage motor vehicle or a nonrepairable [~~non-repairable~~] motor vehicle for which a nonrepairable

[~~non-repairable~~] vehicle title was issued prior to September 1, 2003, has been rebuilt, the owner shall file a [~~certificate of~~] title application, as described in §217.4 of this title (relating to Initial Application for Title), for a rebuilt salvage [~~certificate of~~] title.

(b) Place of application. An application for a rebuilt salvage [~~certificate of~~] title shall be filed with the county tax assessor-collector in the county in which the applicant resides, in the county in which the motor vehicle was purchased or is encumbered, or to any county tax assessor-collector who is willing to accept the application.

(c) Fee for rebuilt salvage [~~certificate of~~] title. In addition to the statutory fee for a title application and any other applicable fees, a $65 rebuilt salvage fee must accompany the application.

(d) Accompanying documentation. The application for a [~~certificate of~~] title for a rebuilt nonrepairable [~~non-repairable~~] or salvage motor vehicle must be supported, at a minimum, by the following documents:

(1) evidence of ownership, properly assigned to the applicant, as described in subsection (e) of this section;

(2) a rebuilt statement, on a form prescribed by the department that includes:

(A) a description of the motor vehicle, which includes the motor vehicle's model year, make, model, identification number, and body style;

(B) an explanation of the repairs or alterations made to the motor vehicle;

(C) a description of each major component part used to repair the motor vehicle and showing the identification number required by federal law to be affixed to or inscribed on the part;

(D) the name of the owner and the name and address of the rebuilder;

(E) a statement by the owner that the owner is the legal and rightful owner of the vehicle, the vehicle is rebuilt, repaired, reconstructed, or assembled and that the vehicle identification number disclosed on the rebuilt affidavit is the same as the vehicle identification number affixed to the vehicle;

(F) the signature of the owner, or the owner's authorized agent; and

(G) a statement by the rebuilder that the vehicle has been rebuilt, repaired, or reconstructed by the rebuilder and that all component parts used were obtained in a legal and lawful manner, signed by the rebuilder or the rebuilder's authorized agent or employee;

~~[(3) evidence of inspection submitted by the person who repairs, rebuilds, or reconstructs a non-repairable or salvage motor vehicle in the form of disclosure on the rebuilt statement of the vehicle inspection report authorization or certificate number, and the date of inspection, issued by an authorized state safety inspection station after the motor vehicle was rebuilt, if the motor vehicle will be registered at the time of application;]~~

(3) [~~(4)~~] an odometer disclosure statement properly executed by the seller of the motor vehicle and acknowledged by the purchaser, if applicable;

(4) [~~(5)~~] proof of financial responsibility in the title applicant's name, as required by Transportation Code §502.046, unless otherwise exempted by law, if the motor vehicle will be registered at the time of application;

(5) [~~(6)~~] unless otherwise exempted by law, a vehicle identification number inspection [~~report required by~~] under Transportation Code, §501.0321 [~~§548.256 and Transportation Code §501.030~~] if the motor vehicle was last titled or [~~and~~] registered in another [~~state or~~] country, or a document described under 217.4(d)(4) of this title (relating to Initial Application for Title) if the vehicle was last titled or registered in another state [~~unless otherwise exempted by law~~]; and

(6) [~~(7)~~] a release of any liens, unless there is no transfer of ownership and the same lienholder is being recorded as is recorded on the surrendered evidence of ownership.

(e) Evidence of ownership of a rebuilt salvage motor vehicle:

(1) may include:

(A) a Texas Salvage Vehicle Title or Record of Title;

(B) a Texas Nonrepairable [~~non-repairable~~] Certificate of Title issued prior to September 1, 2003;

(C) a Texas Salvage Certificate; or

(D) a comparable salvage certificate or salvage certificate of title issued by another jurisdiction, except that this ownership document will not be accepted if it indicates that the motor vehicle may not be rebuilt in the jurisdiction that issued the ownership document; but

(2) does [~~may~~] not include:

(A) a Texas nonrepairable [~~non-repairable~~] vehicle title issued on or after September 1, 2003;

(B) an out-of-state ownership document that indicates that the motor vehicle is nonrepairable [~~non-repairable~~], junked, for parts or dismantling only, or the motor vehicle may not be rebuilt in the jurisdiction that issued the ownership document; or

(C) a certificate of authority to dispose of a motor vehicle issued in accordance with Transportation Code, Chapter 683.

(f) Rebuilt salvage [~~certificate of~~] title issuance. Upon receiving a completed [~~certificate of~~] title application for a rebuilt salvage motor vehicle, along with the applicable fees and required documentation, the transaction will be processed and a rebuilt salvage [~~certificate of~~] title will be issued. The [~~certificate of~~] title will include a "Rebuilt Salvage" notation and a description or disclosure of the motor vehicle's former condition on its face.

(g) Issuance of rebuilt salvage [~~certificate of~~] title to a motor vehicle from another jurisdiction. On proper application, as prescribed by §217.4, by the owner of a motor vehicle that is brought into this state from another jurisdiction and for which a certificate of title issued by the other jurisdiction contains a "Rebuilt," "Salvage," or analogous title remark, the department will issue the applicant a [~~certificate of~~] title or other appropriate document for the motor vehicle. A [~~certificate of~~] title or other appropriate document issued under this subsection will show [~~on its face~~]:

(1) the date of issuance;

(2) the name and address of the owner;

(3) any registration number assigned to the motor vehicle;

(4) a description of the motor vehicle as determined by the department; and

(5) any title remark the department considers necessary or appropriate.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 28, 2024.

TRD-202402862
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Earliest possible date of adoption: August 11, 2024
For further information, please call: (512) 465-4160

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43 TAC §217.87

STATUTORY AUTHORITY. The department proposes a repeal to Chapter 217 under Transportation Code, §501.09111, which identifies the rights and limitations of rights to owners of nonrepairable and salvage motor vehicles.

CROSS REFERENCE TO STATUTE. The proposed repeal would implement Transportation Code §501.09111. §217.87. Rights of Holder of Non-repairable or Salvage Motor Vehicle Documents.

§217.87. Rights of Holder of Non-repairable or Salvage Motor Vehicle Documents.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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For further information, please call: (512) 465-4160

♦ ♦ ♦

SUBCHAPTER E. TITLE LIENS AND CLAIMS

43 TAC §217.106

STATUTORY AUTHORITY. The department proposes amendments to Chapter 217 under Transportation Code §501.115, which provides the department authority to govern the discharge of a lien on a title, and Transportation Code, §1002.001, which authorizes the department to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE. The proposed amendments would implement Transportation Code §§501.115, and 1002.001.

§217.106. Discharge of Lien.

A lienholder shall provide the owner, or the owner's designee, a discharge of the lien after receipt of the final payment within the time limits specified in Transportation Code, §501.115 [~~Chapter 501~~]. The lienholder shall submit one of the following documents:

(1) the title including an authorized signature in the space reserved for release of lien;

(2) a release of lien form prescribed by the department, with the form filled out to include the:

(A) title or document number, or a description of the motor vehicle including, but not limited to, the motor vehicle:

(i) year;

(ii) make;

(iii) vehicle identification number; and

(iv) license plate number, if the motor vehicle is subject to registration under Transportation Code, Chapter 502;

(B) printed name of lienholder;

(C) signature of lienholder or an authorized agent;

(D) printed name of the authorized agent if the agent's signature is shown;

(E) telephone number of lienholder; and

(F) date signed by the lienholder;

(3) signed and dated correspondence submitted on company letterhead that includes:

(A) a statement that the lien has been paid;

(B) a description of the vehicle as indicated in paragraph (2)(A) of this subsection;

(C) a title or document number; or

(D) lien information;

(4) any out-of-state prescribed release of lien form, including an executed release on a lien entry form;

(5) out-of-state evidence with the word "Paid" or "Lien Satisfied" stamped or written in longhand on the face, followed by the name of the lienholder, countersigned or initialed by an agent, and dated; or

(6) original security agreements or copies of the original security agreements if the originals or copies are stamped "Paid" or "Lien Satisfied" with a company paid stamp or if they contain a statement in longhand that the lien has been paid followed by the company's name.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER F. MOTOR VEHICLE RECORDS

43 TAC §§217.122 - 217.125, 217.129, 217.131

STATUTORY AUTHORITY. The department proposes amendments to Chapter 217 under Transportation Code §730.014, which give the department authority to adopt rules to administer

Transportation Code Chapter 730, Motor Vehicle Records Disclosure Act; and Transportation Code §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department, as well as the statutes referenced throughout this preamble.

CROSS REFERENCE TO STATUTE. The proposed amendments would implement Transportation Code §§730.014, and 1002.

§217.122. Definitions.

(a) Words and terms defined in Transportation Code, Chapter 730 have the same meaning when used in this subchapter, unless the context clearly indicates otherwise.

(b) The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Department--Texas Department of Motor Vehicles.

(2) Requestor--A person as defined by Transportation Code, §730.003(5), this state, or an agency of this state seeking personal information contained in motor vehicle records directly from the department.

(3) Service agreement--A contractual agreement with the department that allows a requestor electronic motor vehicle records.

(4) Written request--A request submitted in writing, including by mail, electronic mail, electronic media, and facsimile transmission.

(5) Signature--Includes an electronic signature, as defined by Transportation Code §501.172, to the extent the department accepts such electronic signature.

(6) Batch Inquiry--Access, under a service agreement, to department motor vehicle records associated with Texas license plate numbers or vehicle identification numbers, where requests are submitted electronically to the department in a prescribed batch format. The department makes a disclosure for each record in a batch.

(7) MVInet Access--Electronic access, under a service agreement, to the department's motor vehicle registration and title database, with the ability to query records by a Texas license plate number, vehicle identification number, placard number, or current or previous document number. The department makes a disclosure each time a query of the system is made.

(8) Bulk--A disclosure by the department under Transportation Code §730.007 of at least 250 motor vehicle records containing personal information, including any of the files defined by subsection (b)(10) - (13) of this section.

(9) Bulk contract--A contractual agreement with the department for the disclosure of motor vehicle records in bulk to the requestor.

(10) Master File--A bulk file containing all the department's active and inactive registration and title records.

(11) Weekly Updates--A bulk file containing the department's new and renewed vehicle registration and title records from the previous week.

(12) Specialty Plates File--A bulk file containing Texas specialty license plate records.

(13) eTAG File--A bulk file containing records related to new or updated eTAGs, vehicle transfer notifications, and plate-to-owner records.

(14) Dealer/Supplemental File--A pair of files, one containing records of registration and title transactions processed by dealers with the department during the previous week and another containing the dealers' information, that are only available as a supplement to a bulk contract that includes the Weekly Updates.

§217.123. Access to Motor Vehicle Records.

(a) Except as required under subsection (f) of this section, a requestor seeking personal information from department motor vehicle records shall submit a written request in a form required by the department. A completed and properly executed form must include:

(1) the name and address of the requestor;

(2) a description of the requested motor vehicle records, including the Texas license plate number, title or document number, or vehicle identification number of the motor vehicle about which information is requested;

(3) proof of the requestor's identity, in accordance with subsections (b) or (c) of this section;

(4) a statement that the requestor:

(A) is the subject of the record;

(B) has the written consent of the person who is the subject of the record; or

(C) will strictly limit the use of the personal information in department motor vehicle records to a permitted use under Transportation Code Chapter 730, as indicated on the form;

(5) a certification that the statements made on the form are true and correct; and

(6) the signature of the requestor.

(b) Except as required by subsection (c) of this section, a requestor must provide the requestor's current photo identification containing a unique identification number. The identification must be a:

(1) driver's license, Texas Department of Public Safety identification, or state identification certificate issued by a state or territory of the United States;

(2) United States or foreign passport;

(3) United States military identification card;

(4) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State identification document;

(5) [~~concealed handgun license or~~] license to carry a handgun issued by the Texas Department of Public Safety under Government Code Chapter 411, Subchapter H; or

(6) North Atlantic Treaty Organization identification or identification issued under a Status of Forces Agreement.

(c) A requestor seeking personal information from department motor vehicle records for use by a law enforcement agency must:

(1) present the requestor's current law enforcement credentials;

(2) electronically submit the request in a manner that the department can verify that the requestor is acting on behalf of a law enforcement agency; or

(3) provide a written statement from a higher level in the chain of command on the law enforcement agency's letterhead stating that the requestor is not authorized to provide current law enforcement credentials and identifying the intended use or the [~~law enforcement~~]

agency's incident or case number for which the personal information is needed.

(d) A requestor seeking personal information from department motor vehicle records for use by a law enforcement agency may submit a verbal request to the department if the law enforcement agency has provided reasonable assurances that were accepted by the department as to the identity of the requestor within the last 12 months on a form required by the department. If a request is submitted verbally, the department may require the requestor to confirm the request in writing.

(e) A requestor may receive electronic access to department motor vehicle records under the terms and conditions of a service agreement.

(1) Before a requestor can enter into a service agreement, the requestor must file a completed application on a form required by the department, for review and approval by the department. An application for a service agreement must include:

(A) a statement that the requestor will strictly limit the use of the personal information from department motor vehicle records to a permitted use under Transportation Code Chapter 730, as indicated on the application;

(B) the name and address of the requestor;

(C) proof of the requestor's identity, in accordance with subsections (b) or (c) of this section;

(D) copies of agreements used by the requestor to release motor vehicle record information to third parties;

(E) any additional material provided to third-party requestors detailing the process through which they obtain motor vehicle record information and describing their limitations as to how this information may be used;

(F) [~~(D)~~] the signature of the requestor or, if the requestor is an organization or entity, the signature of an officer or director of the requestor; and

(G) [~~(E)~~] a certification that the statements made in the application are true and correct.

(2) If the department determines any of the information provided in the application is incomplete, inaccurate, or does not meet statutory requirements the department will not enter into a service agreement to release motor vehicle record information.

(3) [~~(2)~~] Unless the requestor is exempt from the payment of fees, a service agreement must contain an adjustable account, in which an initial deposit and minimum balance is maintained in accordance with §217.124 of this title (relating to Cost of Motor Vehicle Records). Notwithstanding §217.124 of this title, the department may modify initial deposit and minimum balance requirements depending on usage.

(f) Access to bulk motor vehicle records. A requestor seeking access to department motor vehicle records in bulk must enter into a bulk contract with the department.

(1) Before a requestor can enter into a bulk contract, the requestor must file a completed application on a form required by the department, for review and approval by the department. An application for a bulk contract must include:

(A) a statement that the requestor will strictly limit the use of the personal information to a permitted use under Transportation Code Chapter 730, as indicated on the application;

(B) the name and address of the requestor;

(C) proof of the requestor's identity, in accordance with §217.123(b) or (c) of this title (relating to Access to Motor Vehicle Records);

(D) copies of agreements used by the requestor to release motor vehicle record information to third parties;

(E) any additional material provided to third party requestors detailing the process in which they obtain motor vehicle record information and describing their limitations as to how this information may be used;

(F) [~~(D)~~] a certification that the statements made on the form are true and correct; and

(G) [~~(E)~~] the signature of the requestor or, if the requestor is an organization or entity, the signature of an officer or director of the requestor.

(2) If the department determines any of the information provided is incomplete, inaccurate, or does not meet statutory requirements the department will not enter into a bulk contract to release motor vehicle record information.

(3) [~~(2)~~] Prior to the execution of a bulk contract, a requestor must provide proof the requestor has:

(A) posted a $1 million performance bond, payable to this state, conditioned upon the performance of all the requirements of Transportation Code Chapter 730 and this subchapter; and

(B) insurance coverage in the amount of at least $3 million and that meets the requirements of Transportation Code §730.014(c)(3).

(g) If a person is convicted of an offense under Transportation Code Chapter 730 or is found by a court to have violated a rule under this subchapter, then any contract with that person to access department motor vehicle records is terminated as of the date of the court's final determination.

(h) The requirements of this section do not apply to discovery, subpoena, or other means of legal compulsion for the disclosure of personal information.

(i) An authorized recipient will receive requested motor vehicle records in accordance with Title 18 U.S.C. §2721 et seq.; Transportation Code Chapter 730; Government Code §552.130; and this subchapter.

§217.124. Cost of Motor Vehicle Records.

(a) Standard costs. The department will charge fees in accordance with Government Code Chapter 552 and the cost rules promulgated by the Office of the Attorney General in 1 Texas Administrative Code Chapter 70 (relating to Cost of Copies of Public Information).

(b) Law enforcement. An employee of a state, federal, or local law enforcement agency is exempt from the payment of fees for motor vehicle records in subsection (c)(1) - (4) of this section if the records are necessary to carry out lawful functions of the law enforcement agency.

(c) Motor vehicle record costs:

(1) Title history - $5.75;

(2) Certified title history - $6.75;

(3) Title and registration verification (record search) - $2.30; and

(4) Certified title and registration verification (record search) - $3.30.

(d) Electronic motor vehicle records and files:

(1) Master File - $5,000 plus $.38 per 1,000 records;

(2) Weekly Updates - deposit of $1,755 and $135 per week;

(3) eTAG File - deposit of $845 and $65 per week;

(4) Dealer/Supplemental File - deposit of $1,235 and $95 per week;

(5) Specialty Plates File - deposit of $1,235 and $95 per week;

(6) Batch Inquiry - deposit of $1,000, minimum balance of $750 and $23 per run plus $.12 per record;

(7) MVInet Access - deposit of $200, minimum balance of $150 and $23 per month plus $.12 per record; and

(8) Scofflaw remarks (inquiry, addition, or deletion) - deposit of $500, minimum balance of $350 and $23 per run plus $.12 per record.

(e) Texas governmental entities, as defined in Government Code §2252.001, the Texas Law Enforcement Telecommunication System, [~~and~~] toll project entities, as defined by Transportation Code §372.001, and federal governmental entities are exempt from the payment of fees, except for the fees listed in subsection (d)(1), (6), or (8) of this section.

(f) Reciprocity agreements. The department may enter into a reciprocity agreement [~~agreements~~] for records access with another [~~other~~] governmental entity [~~entities~~] that may waive some or all of the fees established in this section.

§217.125. Additional Documentation Related to Certain Permitted Uses.

(a) The department may require a requestor to provide reasonable assurance as to the identity of the requestor and that the use of motor vehicle records is only as authorized under Transportation Code §730.012(a). Where applicable, each requestor submitting a request for motor vehicle records shall provide documentation satisfactory to the department that they are authorized to request the information on behalf of the organization, entity, or government agency authorized to receive the information.

(b) Requestors seeking personal information from motor vehicle records from the department for a permitted use listed in this subsection must submit additional documentation.

(1) A request under Transportation Code §730.007(a)(2)(C) must include the personal information the business is attempting to verify against the department's motor vehicle records and documentation sufficient to prove the requestor is a business actively licensed by, registered with, or subject to regulatory oversight by a government agency.

(2) A request under Transportation Code §730.007(a)(2)(D) must include proof of a legal proceeding, or if no proceeding has been initiated, proof the requestor is in anticipation of litigation relating to the request which would necessitate release of the document(s) requested.

(3) A request under Transportation Code §730.007(a)(2)(E) must include documentation sufficient to prove the requestor is employed by an entity in the business of conducting research related to the requested information and demonstrating the employment relationship. The department has discretion in determining whether the entity is in the business of conducting research related to the requested information and in determining whether the documentation provided is sufficient to demonstrate an employment relationship. [~~in a researching occupation.~~]

(4) A request under Transportation Code §730.007(a)(2)(F) must include an active license number provided by the Texas Department of Insurance or an active out-of-state license number provided by the relevant regulatory authority, an active license number the insurance support organization is working under, or proof of self-insurance.

(5) A request under Transportation Code §730.007(a)(2)(G) must include an active license number provided by the Texas Department of Licensing and Regulation or an active out-of-state license number provided by the relevant regulatory authority.

(6) A request under Transportation Code §730.007(a)(2)(H) must include an active license number provided by the Texas Department of Public Safety or an active out-of-state license number provided by the relevant regulatory authority.

(7) A request under Transportation Code §730.007(a)(2)(I) must include a copy of an active commercial driver's license.

(8) A request under Transportation Code §730.007(a)(2)(J) must include documentation to relate the requested personal information with the operation of a toll transportation facility or another type of transportation project as described by Transportation Code §370.003.

(9) A request under Transportation Code §730.007(a)(2)(K) must include documentation on official letterhead indicating a permitted use for personal information, as defined by the Fair Credit Reporting Act (15 U.S.C. §1681 et. Seq.).

(10) A request under Transportation Code §730.007(a)(2)(L) must include an active license number of a manufacturer, dealership, or distributor issued by the department or an active out-of-state license number provided by the relevant regulatory authority.

(11) A request under Transportation Code §730.007(a)(2)(M) must include an active license or registration number of a salvage vehicle dealer, an independent motor vehicle dealer, or a wholesale motor vehicle dealer issued by the department; or an active license issued by the Texas Department of Licensing and Regulation to a used automotive parts recycler; or other proof that the requestor is subject to regulatory oversight by an entity listed in Transportation Code §730.007(a)(2)(M)(iv).

(c) The department may require a requestor to provide additional information to clarify the requestor's use of the personal information under Transportation Code Chapter 730, if the reasonable assurances provided with the request are not satisfactory to the department.

§217.129. Ineligibility to Receive Personal Information Contained in Motor Vehicle Records.

(a) The department may deny a request for or cease disclosing personal information contained in the department's motor vehicle records if it determines withholding the information benefits the public's interest more than releasing the information subject to Transportation Code, §730.005 and §730.006.

(b) If the department determines an authorized recipient has violated a term or condition of a contract with the department to access motor vehicle records and the department terminates the contract, that authorized recipient cannot enter into a subsequent contract with the department to access motor vehicle records unless approved to do so under §217.130 of this title (relating to Approval for Persons Whose Access to Motor Vehicle Records Has Previously Been Terminated).

(c) Termination of a contract with the department to access motor vehicle records caused by any member of an organization or entity shall be effective on the whole organization or entity. Subsequent

organizations or entities formed by any member, officer, partner, or affiliate of an organization or entity whose contract with the department to access motor vehicle records has previously been terminated cannot enter into a subsequent contract with the department to access motor vehicle records, unless approved to do so under §217.130 of this title (relating to Approval for Persons Whose Access to Motor Vehicle Records Has Previously Been Terminated).

§217.131. Notices Regarding Unauthorized Recipient.

~~[(a) For the purposes of this section, a requestor includes a person, the state, or an agency of this state that previously received personal information from department motor vehicle records.]~~

(a) [~~(b)~~] A requestor who has previously received personal information from the department and is not an authorized recipient must, not later than 90 days after the date the requestor becomes aware that the requestor is not an authorized recipient, delete from the requestor's records any personal information received from the department that the requestor is not permitted to receive and use under Transportation Code Chapter 730.

(b) [~~(c)~~] A requestor who becomes aware that the requestor is not an authorized recipient must promptly notify the department that the requestor is not an authorized recipient and provide the date they became aware.

(c) [~~(d)~~] If the department becomes aware that the requestor is not an authorized recipient before receiving notice from the requestor, the department will send a written notice to the requestor stating that the requestor is not an authorized recipient. If the requestor was not already aware that it is not an authorized recipient, within 90 days from the date the department sends its notice under this subsection, the requestor must delete any personal information received from the department that the requestor is not permitted to receive and use under Transportation Code Chapter 730.

(d) [~~(e)~~] A requestor who becomes aware that the requestor is not an authorized recipient must notify the department when all the department's personal information has been deleted.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER G. INSPECTIONS

43 TAC §217.143, §217.144

STATUTORY AUTHORITY. The department proposes amendments to Chapter 217 under Transportation Code, §501.0041, which gives the department authority to adopt rules to administer Transportation Code, Chapter 501, Certificate of Title Act; Transportation Code, §501.030, which authorizes the department to adopt rules governing identification number inspections for motor vehicles brought into the state; Transportation Code, §501.0321, which authorizes the department to adopt rules establishing the training requirements for personnel conducting identification number inspections; Transportation Code, §501.0322, which provides the department with authority to adopt rules to establish an alternative identification number inspection; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

CROSS REFERENCE TO STATUTE. The proposed amendments would implement Transportation Code §§501.0041, 501.030, 501.0321, 501.0322, and 1002.001.

§217.143. Inspection Requirements.

(a) On initial titling of an assembled vehicle under Transportation Code Chapter 731, and Subchapter L of this title (relating to Assembled Vehicles), with the exception of an assembled motorcycle, assembled trailer, and glider kit, an applicant must provide proof, on a form prescribed by the department, of a safety inspection performed by a master technician.

(b) In addition to the requirement under subsection (a) of this section, an owner applying for initial registration of a custom vehicle or street rod must provide proof, on a form prescribed by the department, of a safety inspection performed by a master technician under this section as required under Transportation Code §504.501(e).

(c) The inspection must meet the minimum requirements under Transportation Code, §731.102 to evaluate the structural integrity and proper function of the equipment.

(d) The inspector must certify that:

(1) the vehicle and equipment are structurally stable;

(2) the vehicle and equipment meet the necessary conditions to be operated safely on the roadway;

(3) equipment used in the construction of the vehicle, for which a federal motor vehicle safety standard exists, complies with the applicable standard; and

(4) if the vehicle is a custom vehicle or street rod, the vehicle is equipped and operational with all equipment required by statute as a condition of sale during the year the vehicle was manufactured or resembles.

(e) The inspection of an assembled vehicle required under subsection (a) of this section is in addition to all other required inspections including an inspection required under Transportation Code Chapter 548.

(f) The applicant must pay all fees to the master technician for the inspection of an assembled vehicle required under subsection (a) of this section, including any reinspection.

(g) In addition to the fees in subsection (f) of this section, the applicant must pay all applicable fees for other required inspections as required by law, including any applicable [~~an~~] inspection or reinspection required under Transportation Code Chapter 548.

§217.144. Identification Number Inspection.

(a) In addition to any other requirement specified by Transportation Code, §501.0321, a person is qualified to perform an inspection under Transportation Code, §501.0321, if that person has completed one of the following training programs:

(1) Intermediate or Advanced Motor Vehicle Crime Investigator Training provided by the Motor Vehicle Crime Prevention Authority;

(2) Auto Theft School (Parts 1 and 2) provided by the Texas Department of Public Safety; or

(3) Auto Theft Course provided by the National Insurance Crime Bureau.

(b) If a person qualified to perform an inspection under Transportation Code, §501.0321, is unable to determine a manufactured motor vehicle's original year of manufacture or original make designation, the department will not issue title and registration to the motor vehicle. A person inspecting a motor vehicle under §501.0321 who is able to identify the motor vehicle as a manufactured motor vehicle, but is unable to identify the manufactured motor vehicle's original year of manufacture or original make designation, or both, may not identify the vehicle as an assembled, homemade, or shop-made vehicle.

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SUBCHAPTER H. DEPUTIES

43 TAC §§217.161, 217.166, 217.168

STATUTORY AUTHORITY: The department proposes amendments to Chapter 217 under Transportation Code §502.095, as amended by HB 718, which gives the department authority to issue one-trip and 30-day license plates; Transportation Code §502.1911, which authorizes the department to adopt rules to set registration processing and handling fees; Transportation Code §520.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 520, Miscellaneous Provisions; Transportation Code, §520.004, which authorizes the department to adopt rules to establish standards for uniformity and service quality for counties conducting registration and titling services; and Transportation Code, §1002.001, which authorizes the department to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE. The proposed amendments would implement Transportation Code §§502.095, §502.1911, 520.003. 520.004 and 1002.001.

§217.161. Purpose and Scope.

Pursuant to Transportation Code, §520.0071, a county tax assessor-collector, with the approval of the commissioners court of the county, may appoint deputies to perform designated motor vehicle titling and registration services. This subchapter prescribes the classification types, duties, and obligations of deputies; the type and amount of any bonds that deputies may be required to post; and the fees that deputies may be authorized to charge or retain. All [~~A deputy appointed under Transportation Code, §520.0071, on or before December 31, 2016, may continue to perform services authorized under former Transportation Code, §§520.008, 520.009, 520.0091, and 520.0092, as amended by Acts 2011, 82nd Leg., ch. 1296 (H.B. 2357). Beginning January 1, 2017, all~~] deputies must be deputized in accordance with and comply with the provisions of this subchapter.

§217.166. Dealer Deputies.

(a) A county tax assessor-collector, with the approval of the commissioner's court of the county, may deputize a motor vehicle dealer to act as a dealer deputy to provide motor vehicle titling and registration services in the same manner and with the same authority as though done in the office of the county tax assessor-collector, except as limited by this section.

(b) A dealer deputy must hold a valid general distinguishing number (GDN) under Transportation Code, Chapter 503, Subchapter B, and may act as a dealer deputy only for a type of motor vehicle for which the dealer holds a GDN. A dealer may not continue to act as a dealer deputy if the GDN is cancelled or suspended.

(c) A county tax assessor-collector may impose reasonable obligations or requirements upon a dealer deputy in addition to those set forth in this section. The county tax assessor-collector may, at the time of deputation or upon renewal of deputation, impose specified restrictions or limitations on a dealer deputy's authority to provide certain titling or registration services.

(d) Upon the transfer of ownership of motor vehicles purchased, sold or exchanged by the dealer deputy, the dealer deputy may process titling transactions in the same manner and with the same authority as though done in the office of the county tax assessor-collector. The dealer deputy may not otherwise provide titling services to the general public.

(e) Upon the transfer of ownership of a motor vehicle purchased, sold or exchanged by the dealer deputy, the dealer deputy may process initial registration transactions in the same manner and with the same authority as though done in the office of the county tax assessor-collector. The dealer deputy may not otherwise offer initial registration services to the general public.

(f) The county tax assessor-collector may authorize a dealer deputy to provide motor vehicle registration renewal services. A dealer deputy offering registration renewal services must offer such services to the general public, and must accept and process any proper application for registration renewal that the county tax assessor-collector would accept and process.

(g) To be eligible to serve as a dealer deputy, a person must be trained to perform motor vehicle titling and registration services, as approved by the county tax assessor-collector, or otherwise be deemed competent by the county tax assessor-collector to perform such services.

(h) To be eligible to serve as a dealer deputy, a person must post a bond payable to the county tax assessor-collector consistent with §217.167 of this title (relating to Bonding Requirements) with the bond conditioned on the person's proper accounting and remittance of the fees the person collects. The county tax assessor-collector may set a maximum number of webDEALER transactions for a dealer deputy, and the maximum number must be based on the bond amount.

(i) A person applying to be a dealer deputy must complete the application process as specified by the county tax assessor-collector. The application process may include satisfaction of any bonding requirements and completion of any additional required documentation or training of the deputy before the processing of any title or registration transactions may occur.

(j) If a dealer deputy offers registration renewal services to the general public, the deputy must provide the physical address at which services will be offered, the mailing address, the phone number, and the hours of service. This information may be published on the department's website and may be published by the county if the county publishes a list of deputy locations.

(k) A dealer deputy shall keep a separate accounting of the fees collected and remitted to the county, and a record of daily receipts.

(l) A dealer deputy may charge or retain fees consistent with the provisions of §217.168 of this title (relating to Deputy Fee Amounts).

(m) This section does not prevent a county tax assessor-collector from deputizing a dealer as a full service deputy under §217.163 of this title (relating to Full Service Deputies) or a limited service deputy under §217.164 of this title (relating to Limited Service Deputies) instead of a dealer deputy under this section.

§217.168. Deputy Fee Amounts.

(a) Fees. A county tax assessor-collector may authorize a deputy to charge or retain the fee amounts prescribed by this section according to the type of deputy and transaction type.

(b) Title transactions. For each motor vehicle title transaction processed:

(1) A full service deputy may charge the customer a fee of up to $20, as determined by the full service deputy and approved by the county tax assessor-collector.

(A) The full service deputy retains the entire fee charged to the customer.

(B) If a full service deputy is authorized by a county tax assessor-collector to review and approve title transactions submitted through webDEALER, the full service deputy is required to designate the fee of up to $20 within the department's Registration and Title System that will be assessed on webDEALER title transactions.

(2) A dealer deputy may charge the customer a fee of up to $10, as determined by the dealer deputy and approved by the tax assessor-collector. The dealer deputy retains the entire fee charged to the customer. This section does not preclude a dealer deputy from charging a documentary fee authorized by Finance Code, §348.006.

(c) Registration and registration renewals. For each registration transaction processed:

(1) A full service deputy may:

(A) retain $1 from the processing and handling fee established by §217.183 of this title (relating to Fee Amount); and

(B) charge a convenience fee of $9, except as limited by §217.184 of this title (relating to Exclusions).

(2) A limited service deputy may retain $1 from the processing and handling fee established by §217.183.

(d) Special registration [~~Temporary~~] permit and special registration license plate transactions under Transportation Code, §502.094 or §502.095. For each special registration [~~temporary~~] permit or special registration license plate transaction processed by a full service deputy, the full service deputy may retain the portion of the [~~entire~~] processing and handling fee authorized by §217.185(b) of this title (relating to Allocation of Processing and Handling Fees) [~~established by §217.183~~].

(e) Full service deputy convenience fee. The convenience fee authorized by this section is collected by the full service deputy directly from the customer and is in addition to the processing and handling fee established by §217.183. A full service deputy may not charge any additional fee for a registration or registration renewal transaction.

(f) Related transactions by a full service deputy. The limitations of subsections (b), (c), (d), and (e) of this section do not apply to other services that a full service deputy may perform that are related to titles or registrations, but are not transactions that must be performed through the department's automated vehicle registration and title system. Services that are not transactions performed through the department's automated vehicle registration and title system include, but are not limited to, the additional fees a full service deputy may charge for copying, faxing, or transporting documents required to obtain or correct a motor vehicle title or registration. However, the additional fees that a full service deputy may charge for these other services may be limited by the terms of the county tax assessor-collector's authorization to act as deputy.

(g) Posting of fees. At each location where a full service deputy provides titling or registration services, the deputy must prominently post a list stating all fees charged for each service related to titling or registration. The fee list must specifically state each service, including the additional fee charged for that service, that is subject to subsections (b), (c), (d), or (e) of this section. The fee list must also state that each service subject to an additional fee under subsection (b), (c), (d), or (e) of this section may be obtained from the county tax assessor-collector without the additional fee. If the full service deputy maintains a website advertising or offering titling or registration services, the deputy must post the fee list described by this subsection on the website.

(h) Additional compensation. The fee amounts set forth in this section do not preclude or limit the ability of a county to provide additional compensation to a deputy out of county funds.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Laura Moriaty
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Texas Department of Motor Vehicles
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SUBCHAPTER I. PROCESS AND HANDLING FEES

43 TAC §§217.181 - 217.185

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department proposes amendments to Chapter 217 under Transportation Code §502.0021, which gives the department authority to adopt rules to administer Transportation Code Chapter 502, Registration of Vehicles; Transportation Code §502.040, which authorizes the department to prescribe the process and procedures for applying for a motor vehicle registration; Transportation Code §502.059, which authorizes the department to adopt rules providing for an automated registration process; Transportation Code §502.1911 which authorizes the board to adopt rules to set registration processing and handling fees; Transportation Code §520.003, which authorizes the department to adopt rules to administer Transportation Code Chapter 520, Miscellaneous Provisions; Transportation Code §520.004, which authorizes the department to adopt rules to establish standards for uniformity and service quality for counties conducting registration and titling services; Transportation Code §520.0055, as created by HB 718, gives the department authority to mandate motor vehicle dealers use a department designated electronic system to

submit title and registration applications to the county tax assessor-collectors for motor vehicle transactions; and Transportation Code §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers of the department, as well as the statutes throughout this preamble.

CROSS REFERENCE TO STATUTE. The proposed amendments would implement Transportation Code §§502.0021, 502.040, 502.059, 502.1911, 520.003, 520.004, 520.055, and 1002.001.

§217.181. Purpose and Scope.

This subchapter prescribes the processing and handling fees [~~fee~~] authorized by Transportation Code, §502.1911, which include [~~includes~~] the fee established under Transportation Code, §502.356(a), and are [~~is~~] sufficient to cover the expenses associated with collecting registration fees by the department, a county tax assessor-collector, a private entity with which a county tax assessor-collector contracts under Transportation Code, §502.197, or a deputy assessor-collector that is deputized in accordance with Subchapter H of this chapter (relating to Deputies).

§217.182. Registration Transaction.

As used in this subchapter, a "registration transaction" is a registration or registration renewal under Transportation Code, Chapter 502, or a transaction to issue the following:

(1) a registration, registration renewal, special registration license plate, or special registration permit issued under Transportation Code, Chapter 502, Subchapter C (Special Registrations);

(2) a license plate issued under Transportation Code, §502.146;

(3) a temporary additional weight permit under Transportation Code, §502.434;

(4) a license plate or license plate sticker under Transportation Code, §§504.501, 504.502, 504.506, or 504.507;

(5) a golf cart license plate under Transportation Code, §551.402; or

(6) a package delivery vehicle license plate under Transportation Code, §551.452.

(7) an off-highway vehicle license plate under Transportation Code, §551A.052.

§217.183. Fee Amount.

(a) Except as stated otherwise in this section and except as exempted [~~limited~~] by §217.184 of this title (relating to Exclusions), a processing and handling fee in the amount of $4.75 shall be collected with each registration transaction processed by the department, the county tax assessor-collector, or a deputy appointed by the county tax assessor-collector.

(b) Except as stated otherwise in subsection (c) of this section and except as exempted by §217.184 of this title (relating to Exclusions), for each registration transaction processed through the department's TxFLEET system, the processing and handling fee consists of the following, which the applicant must pay: [~~For registrations processed through the TxIRP system, the applicant shall pay any applicable service charge.~~]

(1) $4.75; and

(2) the applicable service charge.

(c) If a transaction includes both registration and issuance of a license plate or specialty plate, the processing and handling fee shall be collected on the registration transaction only.

§217.184. Exclusions.

The following transactions are exempt from the processing and handling fees [~~fee~~] established by §217.183 of this title (relating to Fee Amount), but are subject to any applicable service charge set pursuant to Government Code, §2054.2591, Fees. The processing and handling fees [~~fee~~] may not be assessed or collected on the following transactions:

(1) a replacement registration sticker under Transportation Code, §502.060;

(2) a registration transfer under Transportation Code, §502.192;

(3) an exempt registration under Transportation Code, §502.451 or §502.0025;

(4) a vehicle transit permit under Transportation Code, §502.492;

(5) a replacement license plate under Transportation Code, §504.007;

(6) a registration correction receipt, duplicate receipt, or inquiry receipt;

(7) an inspection fee receipt; or

(8) an exchange of license plate for which no registration fees are collected.

§217.185. Allocation of Processing and Handling Fees [~~Fee~~].

(a) For registration transactions, except as provided in subsection (b) of this section, the fee amounts [~~amount~~] established in §217.183 of this title (relating to Fee Amount) shall be allocated as follows:

(1) If the registration transaction was processed in person at the office of the county tax assessor-collector or mailed to an office of the county tax assessor-collector:

(A) the county tax assessor-collector may retain $2.30; and

(B) the remaining amount shall be remitted to the department.

[~~(2) If the registration transaction was mailed to office of the county tax assessor-collector:~~]

[~~(A) the county tax assessor-collector may retain $2.30; and~~]

[~~(B) the remaining amount shall be remitted to the department.~~]

(2) [~~(3)~~] If the registration transaction was processed through the department or the TxFLEET [~~TxIRP~~] system or is a registration processed under Transportation Code, §§502.0023, 502.091, or 502.255; or §217.46(b)(5) or(d)(1)(B)(i) of this title (relating to Commercial Vehicle Registration):

(A) $2.30 will be remitted to the county tax assessor-collector; and

(B) the remaining amount shall be retained by the department.

(3) [~~(4)~~] If the registration transaction was processed through Texas by Texas (TxT) or the department's Internet Vehicle Title and Registration Service (IVTRS), [~~online registration portal,~~] the fee established in §217.183 of this title is discounted by $1:

(A) Texas Online receives the amount set pursuant to Government Code, §2054.2591, Fees;

(B) the county tax assessor-collector may retain $.25; and

(C) the remaining amount shall be remitted to the department.

(4) [~~(5)~~] If the registration transaction was processed by a limited service deputy or full service deputy appointed by the county tax assessor-collector in accordance with Subchapter H of this chapter (relating to Deputies):

(A) the deputy may retain:

(i) the amount specified in §217.168(c) of this title (relating to Deputy Fee Amounts). The deputy must remit the remainder of the processing and handling fee to the county tax assessor-collector; and

(ii) the convenience fee established in §217.168, if the registration transaction is processed by a full service deputy;

(B) the county tax assessor-collector may retain $1.30; and

(C) the county tax assessor-collector must remit the remaining amount to the department.

(5) [~~(6)~~] If the registration transaction was processed by a dealer deputy appointed by the county tax assessor-collector in accordance with Subchapter H of this chapter (relating to Deputies):

(A) the deputy must remit the processing and handling fee to the county tax assessor-collector;

(B) the county tax assessor-collector may retain $2.30; and

(C) the county tax assessor-collector must remit the remaining amount to the department.

(b) For transactions under Transportation Code, §§502.093 - 502.095, [~~§§502.092-502.095,~~] the entity receiving the application and processing the transaction collects [~~and retains~~] the $4.75 [~~entire~~] processing and handling fee established in §217.183:[~~.~~]

(1) the entity may retain $4.25;

(2) the entity must remit the remaining amount to the department; and

(3) a [~~A~~] full service deputy processing a special registration [~~temporary~~] permit or special registration license plate transaction may not charge a convenience fee for that transaction.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Laura Moriaty
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SUBCHAPTER J. PERFORMANCE QUALITY RECOGNITION PROGRAM

43 TAC §217.205

STATUTORY AUTHORITY. The department proposes amendments to Chapter 217 under Transportation Code, §520.003, which authorizes the department to adopt rules to administer Transportation Code,

Chapter 520, Miscellaneous Provisions; Transportation Code, §520.004, which authorizes the department

to adopt rules to establish standards for uniformity and service quality for counties conducting registration and titling services; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

CROSS REFERENCE TO STATUTE. The proposed amendments would implement Transportation Code §§520.003, 501.004, and 1002.001.

§217.205. Department Decision to Award, Deny, Revoke, or Demote a Recognition Level.

(a) Award of recognition level. The department may award a recognition level based on the following for the time frame of September 1st through August 31st immediately preceding the application deadline:

(1) information and documents contained in the application;

(2) any additional information, documentation, or clarification requested by the department; and

(3) information and documentation from department records.

(b) Denial of recognition level. The department may deny an award of recognition if:

(1) the application contains any incomplete or inaccurate information;

(2) the applicant fails to provide requested documents;

(3) the application contains incomplete documents;

(4) the application was not received by the department or postmarked by the department's deadline;

(5) the county tax assessor-collector who applied for recognition no longer holds the office of county tax assessor-collector;

(6) the county tax assessor-collector did not sign the application; or

(7) the department discovers information which shows the applicant does not comply with the criteria to receive a recognition level.

(c) Revocation of recognition level or demotion of recognition level.

(1) The department may revoke a recognition level if the department discovers information which shows the county tax assessor-collector no longer complies with the criteria for any recognition level.

(2) The department may demote a recognition level if the department discovers information which shows the county tax assessor-collector no longer complies with the criteria for the current recog-

nition level, but still complies with the criteria for a recognition level. The recognition level will be demoted to the highest recognition level for which the county tax assessor-collector qualifies.

(d) Notice of department decision to award, deny, revoke, or demote a recognition level. The department shall notify the county tax assessor-collector of the department's decision via email, facsimile transmission, or regular mail.

(e) Deadline for department decision to award or to deny a recognition level. No later than December 31st of the calendar year [~~90 calendar days after receiving the application for recognition~~], the department shall send a written notice to the applicant stating:

(1) the department's decision to award or to deny a recognition level; or

(2) there will be a delay in the department's decision.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER L. ASSEMBLED VEHICLES

43 TAC §217.404

STATUTORY AUTHORITY: The department proposes amendments to Chapter 217 under Transportation Code §731.002 which authorizes the department to adopt rules as necessary to implement Chapter 731, governing assembled vehicles; and §1002.001, which authorizes the department to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE: The proposed amendments would implement Transportation Code §§731.002, 731.051, and 1002.001.

§217.404. Initial Application for Title.

(a) An [~~Prior to applying for title, an~~] applicant must submit to the department a complete application for title. The application may be submitted in person, by mail, or electronically, to the department. The application must include:

(1) photographs of the front, rear, and side of the assembled vehicle, and if a replica, a photograph of what the vehicle is a replica of;

(2) evidence of ownership of the basic component parts of the assembled vehicle as described in §217.405 of this subchapter (relating to Evidence of Ownership), as applicable to the type of assembled vehicle;

(3) if applicable, proof, on a form prescribed by the department, of a safety inspection required under §217.143 of this chapter (relating to Assembled Vehicle Inspection Requirements), and Transportation Code §731.101;

(4) if applicable, a copy of the Automobile and Light Truck certification, or a successor certification, for the master technician who completed the inspection described in paragraph (3) of this subsection;

(5) a copy of the inspection that may be required under Transportation Code Chapter 548 if the assembled vehicle is to be registered for operation on the roadway;

(6) a Rebuilt Vehicle Statement;

(7) a weight certificate;

(8) identification as required in §217.5(d) of this chapter (relating to Evidence of Motor Vehicle Ownership); and

(9) any of the following means to establish the vehicle identification number:

(A) an Application for Assigned or Reassigned Number, and Notice of Assigned Number or Installation of Reassigned Vehicle Identification Number, on forms prescribed by the department;

(B) an Application for Assigned or Reassigned Number, establishing the vehicle identification number assigned by the manufacturer of the component part by which the assembled vehicle will be identified;

(C) acceptable proof, as established by the department, of a vehicle identification number assigned by the maker of the kit used to construct the assembled vehicle; or

(D) acceptable proof, as established by the department, of a vehicle identification number assigned by the manufacturer of the replica, custom vehicle, street rod, or glider kit.

(b) Following receipt of all information required under subsection (a) of this section, the department will review the application for completeness and to determine if [~~that~~] the vehicle meets assembled vehicle qualifications under Transportation code, Chapter 731.

(c) If the department determines that the application is complete and the vehicle meets assembled vehicle qualifications, the department will issue a letter to the applicant on department letterhead, stating that the application is complete and that the vehicle qualifies as an assembled vehicle. The letter shall include a list of the supporting documents and information identified in subsection (d)(2) of this section.

(d) Following receipt of the department's letter described in subsection (c) of this section, the applicant may then submit the letter and the completed application to the county tax assessor-collector for processing. The application must include:

(1) the department-issued letter described in subsection (c) of this section;

(2) copies of all items required to be submitted to the department in subsection (a)(1) - (9) of this section; and

(3) the requirements as identified in §217.23 of this chapter (relating to Initial Application for Vehicle Registration) if obtaining registration.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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CHAPTER 221. SALVAGE VEHICLE DEALERS

SUBCHAPTER C. LICENSED OPERATIONS

43 TAC §221.54

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes to amend 43 Texas Administrative Code (TAC) Subchapter C, Licensed Operations, §221.54, concerning criteria for site visits. These amendments are necessary to implement House Bill (HB) 718, enacted during the 88th Legislature, Regular Session (2023). HB 718 amended Transportation Code, Chapter 503 to eliminate the use of temporary tags when purchasing a motor vehicle and replaced these tags with categories of license plates, effective July 1, 2025. HB 718 requires the department to determine new distribution methods, systems, and procedures, and set certain fees. Section 34 of HB 718 grants the department authority to adopt rules necessary to implement or administer these changes in law and requires the department to adopt related rules by December 1, 2024. Beginning July 1, 2025, if a motor vehicle is sold to a Texas resident, a Texas dealer will assign a license plate to the vehicle unless the buyer has a specialty or other qualifying license plate, and the assigned license plate will stay with the vehicle if the vehicle is later sold to a buyer including a salvage dealer. These proposed amendments add new criteria to the site visit criteria currently used by the Enforcement Division to include the failure of a salvage dealer to remove, report, or destroy void license plates. These proposed amendments will allow the department to prioritize potential license plate-related misuse or fraud consistent with the department's enforcement obligations under HB 718.

EXPLANATION.

Proposed amendments to §221.54 adds new paragraphs (6) - (8). These proposed amendments expand the list of criteria that the department will consider in determining whether to conduct a site visit to include whether a licensed salvage vehicle dealer has failed to remove a license plate or registration insignia from a scrapped or destroyed vehicle; failed to timely or accurately report to the department or enter information about a license plate from a scrapped or destroyed vehicle into the system designated by the department; or failed to scrap or destroy void license plates and registration insignias from a scrapped or destroyed vehicle. These proposed amendments will ensure that violations of the statutes and rules relating to license plates are factors that the department considers when deciding the priority of conducting a site visit to a salvage vehicle dealer.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Glenna Bowman, Chief Financial Officer, has determined that for each year of the first five years the amendments will be in effect, there will be no fiscal impact to state or local governments as a result of the enforcement or administration of the proposal. Corrie Thompson, Director of Enforcement (ENF), has determined that there will be no measurable effect on local employment or the local economy as a result of the proposal.

PUBLIC BENEFIT AND COST NOTE. Ms. Thompson has also determined that, for each year of the first five years the amended section is in effect, there is a public benefit anticipated because adding license plate-related site visit criteria will enable the department to prioritize the investigation of license plate misuse and fraud which may prevent public harm from these license plates being used to facilitate crimes.

Anticipated Costs To Comply With The Proposal. Ms. Thompson anticipates that there will be no costs to comply with these rules because the amendments do not establish any additional requirements on regulated persons.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. As required by the Government Code, §2006.002, the department has determined that the proposed amendments will not have an adverse economic effect on small businesses, micro-businesses, and rural communities because the proposed amendments add criteria for the department to use and do not add new requirements on, or directly affect, small businesses, micro-businesses, or rural communities. The proposed amendments do not require small business, micro-businesses, or rural communities to comply. Therefore, the department is not required to prepare a regulatory flexibility analysis under Government Code, §2006.002.

TAKINGS IMPACT ASSESSMENT. The department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT. The department has determined that during each year of the first five years the proposed amendments are in effect, no government program would be created or eliminated. Implementation of the proposed amendments would not require the creation of new employee positions or elimination of existing employee positions. Implementation would not require an increase or decrease in future legislative appropriations to the department or an increase or decrease of fees paid to the department. The proposed amendments do not create a new regulation, or limit, or repeal an existing regulation. The proposed amendment would expand an existing regulation by increasing the factors the department looks to when deciding which salvage vehicle dealers to inspect. Lastly, the proposed amendments do not affect the number of individuals subject to the rule's applicability and will not affect this state's economy.

REQUEST FOR PUBLIC COMMENT. If you want to comment on the proposal, submit your written comments by 5:00 p.m. CDT on August 12, 2024. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department proposes amendments to Chapter 221 under Occupations Code, Chapter 2302, and Occupations Code, §2302.051, which authorize the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §502.0021 which au-

thorizes the department to adopt rules to administer Transportation Code, Chapter 502; Transportation Code, §503.002, which authorizes the department to adopt rules to administer Transportation Code, Chapter 503; Transportation Code, §503.063(d), as amended by HB 718, which gives the department authority to conduct a review of the dealer's compliance with statutory obligation to ensure safekeeping of license plates; Transportation Code, §504.0011, which allows the board to adopt rules to implement and administer Chapter 504; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

CROSS REFERENCE TO STATUTE. These proposed rule amendments would implement Occupations Code, Chapter 2302; and Transportation Code, Chapters 501-504, and 1001 - 1003.

§221.54. Criteria for Site Visits.

In determining whether to conduct a site visit at an active salvage vehicle dealer's location, the department will consider whether the dealer has:

(1) failed to respond to a records request;

(2) failed to operate from the license location;

(3) an enforcement history that reveals failed compliance inspections or multiple complaints with administrative sanctions being taken by the department;

(4) a business location that fails to meet premises or operating requirements under this chapter; [~~or~~]

(5) records that require further investigation by the department;[~~,~~]

(6) failed to remove a license plate or registration insignia from a scrapped or destroyed vehicle;

(7) failed to timely or accurately report to the department or enter in the system designated by the department, a void license plate from a scrapped or destroyed vehicle; or

(8) failed to scrap, recycle, or destroy license plates and registration insignia from a scrapped or destroyed vehicle.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Laura Moriaty
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CHAPTER 224. ADJUDICATIVE PRACTICE AND PROCEDURE

SUBCHAPTER B. MOTOR VEHICLE, SALVAGE VEHICLE, AND TRAILER INDUSTRY ENFORCEMENT

43 TAC §224.58

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes to amend 43 Texas Administrative Code (TAC) Subchapter B, Motor Vehicle, Salvage Vehicle, and Trailer Industry Enforcement, §224.58, concerning denial of access to the license plate system. These amendments are necessary to implement House Bill (HB) 718 enacted during the 88th Legislature, Regular Session (2023). HB 718 amended Transportation Code, Chapter 503 to eliminate the use of temporary tags when purchasing a motor vehicle and replacing these tags with categories of license plates effective July 1, 2025. HB 718 requires the department to develop new distribution methods, systems, and procedures, to set certain fees. Section 34 of HB 718 grants the department authority to adopt rules necessary to implement or administer these changes in law and requires the department to adopt related rules by December 1, 2024. Effective July 1, 2025, Transportation Code, §503.0633 requires the department to monitor the number of license plates or sets of license plates obtained by a dealer and to deny access to the license plate database if the department determines that a dealer is acting fraudulently. These proposed amendments implement Transportation Code, §503.0633(f).

The department also proposes non-substantive changes to delete a duplicative word in §215.58(a)(5) and clarify language in §224.58(a)(5) and §224.58(c).

EXPLANATION.

Proposed amendments to the title of §224.58 would delete the phrase "or Converter" and substitute the phrase "License Plate System" for "Temporary Tag System". These proposed amendments recognize that under HB 718, a converter may not issue a temporary tag or license plate effective July 1, 2025, and that the purpose of the database will change from the tracking and issuance of temporary tags to the tracking and issuing of license plates on July 1, 2025.

Proposed amendments throughout §§224.58(a)-(f) would substitute the phrase "license plates" for "temporary tags" because effective July 1, 2025, a dealer may only issue a license plate or set of license plates, and not a temporary tag under Transportation Code, Chapter 503, as amended by HB 718.

Proposed amendments throughout §§224.58(a)-(f) would substitute the phrase "license plate system" for the terms "temporary tag database", "a database", and "database" because the purpose of the system will be to issue and track license plates effective July 1, 2025.

Proposed amendments throughout §224.58(a)-(f) delete the phrases "or converter" and "or converter's" because a converter may not issue a temporary tag or license plate effective July 1, 2025, under Transportation Code, Chapter 503, as amended by HB 718.

Proposed amendments to §224.58(a) would delete a statutory reference to Transportation Code, §503.0626 which was repealed by HB 718 and will no longer exist on July 1, 2025, and add references to §503.063 and §503.065. These two Transportation Code provisions authorize a dealer to issue a buyer's license plate or set of license plates to the purchaser of a motor vehicle in Texas under certain circumstances and

to issue a buyer's temporary license plate to an out-of-state buyer. A proposed amendment to §224.58(a) would add "or issue" to clarify that a dealer misuses the license plate system by fraudulently obtaining or issuing a license plate. A proposed amendment to §224.58(a)(4) would delete "or" and proposed amendments to §215.58(a)(5) would delete a period and add a semicolon and "or" because a new paragraph is proposed to be added as §215.58(a)(6). Proposed non-substantive changes to §224.58(a)(5) would delete a redundant "issued," add "the dealer's" before "licensed location," and delete an unnecessary "a" before "storage lot" to clarify that license plate misuse includes a dealer obtaining or issuing a license plate for a vehicle or motor vehicle not located at the dealer's licensed location or storage lot. A proposed amendment would add new §215.58(a)(6), which defines license plate system misuse to include obtaining or issuing a license plate for a vehicle that is not titled or permitted by law to be operated on a public highway. This proposed new language addresses situations such as a dealer obtaining or issuing a license plate for a rebuilt vehicle that is not titled, or obtaining or issuing a license plate for a vehicle that has not passed a required emissions inspection in a non-attainment county, and prevents the associated public harm.

A proposed amendment to §224.58(b) would substitute the phrase "or issued a license plate in the license plate system" for "temporary tags from the temporary tag database" to implement the change from temporary tags to license plates mandated by HB 718.

A proposed nonsubstantive change to §224.58(c) adds "address" after "email" to clarify that a notice under this section will be sent to the license holder's last known email address in the department-designated licensing system.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Glenna Bowman, Chief Financial Officer, has determined that for each year of the first five years the new section will be in effect, there will be no fiscal impact to state or local governments as a result of the enforcement or administration of the proposal. Corrie Thompson, Director of the Enforcement Division, has determined that there will be no measurable effect on local employment or the local economy as a result of the proposal.

PUBLIC BENEFIT AND COST NOTE. Glenna Bowman, Chief Financial Officer, has determined that for each year of the first five years the new section will be in effect, there will be no fiscal impact to state or local governments as a result of the enforcement or administration of the proposal. Corrie Thompson, Director of the Enforcement Division, has determined that there will be no measurable effect on local employment or the local economy as a result of the proposal.

PUBLIC BENEFIT AND COST NOTE. Ms. Thompson has also determined that, for each year of the first five years the new section is in effect, public benefits include limiting the criminal activity of a small subset of dealers who fraudulently obtain and sell license plates to persons seeking to engage in violent criminal activity, including armed robbery, human trafficking, and assaults on law enforcement, or to persons seeking to criminally operate uninsured and uninspected vehicles as a hazard to Texas motorists and the environment.

Anticipated Costs To Comply With The Proposal. Ms. Thompson anticipates that there will be no costs to comply with this proposed rule as the proposed rule only applies when a dealer's actions indicate fraud.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. As required by Government Code, §2006.002, the department has determined that the proposed new section will not have an adverse economic effect on small businesses or micro-businesses because the rule implements a continuing statutory requirement to prevent fraud - one that first applied to temporary tags and will now apply to license plates obtained or issued by a dealer. The new section will also not have an adverse impact on rural communities because rural communities are not required to hold a general distinguishing number. The proposed section does not require small businesses or micro-businesses to pay a fee or incur any new costs to comply with this new rule unless a dealer commits acts considered fraudulent. Therefore, the department is not required to prepare a regulatory flexibility analysis under Government Code, §2006.002.

TAKINGS IMPACT ASSESSMENT. The department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT. The department has determined that each year of the first five years the proposed new section is in effect, no government program would be created or eliminated. Implementation of the proposed new section would not require the creation of new employee positions or elimination of existing employee positions. Implementation would not require an increase or decrease in future legislative appropriations to the department or an increase or decrease of fees paid to the department. The proposed new section does not create a new regulation and does not expand, limit, or repeal an existing regulation. Lastly, the proposed new section does not increase the number of individuals subject to the rule's applicability and will not affect this state's economy.

REQUEST FOR PUBLIC COMMENT. If you want to comment on the proposal, submit your written comments by 5:00 p.m. CDT on August 12, 2024. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to rules@txdmv.gov or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department proposes amendments to §224.58 under Transportation Code, §§503.002, 503.0631, and 1002.001. Transportation Code, §503.002 authorizes the department to adopt rules to administer Transportation Code Chapter 503. Transportation Code, §503.0631(e) authorizes the department to adopt rules and prescribe procedures as necessary to implement §503.0631. Transportation Code, §1002.001 authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

The department also proposes amendments under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license

holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; and Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

CROSS REFERENCE TO STATUTE. These adopted revisions implement Government Code, Chapter 2001; Occupations Code, Chapter 2301; and Transportation Code, Chapters 503, 1001, and 1002.

§224.58. Denial of Dealer [~~or Converter~~] Access to License Plate System [~~Temporary Tag System~~].

(a) In this section "fraudulently obtained license plates [~~temporary tags~~] from the license plate system [~~temporary tag database~~]" means misuse by a dealer [~~or converter~~] account user of the license plate system [~~temporary tag database~~] authorized under Transportation Code, §503.063, [~~§503.0626 or~~] §503.0631, or §503.065 to obtain or issue:

(1) an excessive number of license plates [~~temporary tags~~] relative to dealer sales;

(2) a license plate [~~temporary tags~~] for a vehicle or vehicles not in the dealer's [~~or converter's~~] inventory (a vehicle is presumed not to be in the dealer's [~~or converter's~~] inventory if the vehicle is not listed in the relevant monthly Vehicle Inventory Tax Statement);

(3) access to the license plate system [~~temporary tag database~~] for a fictitious user or person using a false identity;

(4) a license plate [~~temporary tags~~] for a vehicle or a motor vehicle when a dealer is no longer operating at a licensed location; [~~or~~]

(5) a license plate [~~temporary tags issued~~] for a vehicle or a motor vehicle not located at the dealer's [~~a~~] licensed location or [~~a~~] storage lot; or [~~.~~]

(6) a license plate for a vehicle or motor vehicle that is not titled or permitted by law to be operated on a public highway.

(b) The department shall deny a dealer [~~or converter~~] access to the license plate system [~~temporary tag database~~] effective on the date the department sends notice electronically and by certified mail to the dealer [~~or converter~~] that the department has determined, directly or through an account user, that the dealer [~~or converter~~] has fraudulently obtained or issued a license plate in the license plate system [~~temporary tags from the temporary tag database~~]. A dealer [~~or converter~~] may seek a negotiated resolution with the department by demonstrating the dealer [~~or converter~~] took corrective action or that the department's determination was incorrect.

(c) Notice shall be sent to the dealer's [~~or converter's~~] last known mailing address and last known email address in the department-designated licensing system.

(d) A dealer [~~or converter~~] may request a hearing on the denial of access to the license plate system [~~temporary tag database~~], as provided by Subchapter O, Chapter 2301, Occupations Code. The request must be in writing and the dealer [~~or converter~~] must request a hearing under this section. The department must receive the written request for a hearing within 26 days of the date of the notice denying access to the license plate system [~~database~~]. The request for a hearing does not stay the denial of access under subsection (b) of this section. A dealer [~~or converter~~] may continue to seek a negotiated resolution with the department after a request for hearing has been submitted under this subsection by demonstrating the dealer [~~or converter~~] took corrective action or that the department's determination was incorrect.

(e) The department may also issue a Notice of Department Decision stating administrative violations as provided in §224.56 of this title (relating to Notice of Department Decision) concurrently with the notice of denial of access under this section. A Notice of Department Decision may include notice of any violation, including a violation listed under subsection (a) of this section.

(f) A department determination and action denying access to the license plate system [~~temporary tag database~~] becomes final if the dealer [~~or converter~~] does not request a hearing or enter into a settlement agreement with the department within 26 days of the date of the notice denying access to the license plate system [~~a database~~].

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 27, 2024.

TRD-202402833
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Earliest possible date of adoption: August 11, 2024
For further information, please call: (512) 465-4160

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ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 7. BANKING AND SECURITIES

PART 7. STATE SECURITIES BOARD

CHAPTER 109. TRANSACTIONS EXEMPT FROM REGISTRATION

7 TAC §§109.1 - 109.8, 109.11, 109.13, 109.14, 109.17

The Texas State Securities Board adopts amendments to twelve rules in this chapter, §§109.1 - 109.8, 109.11, 109.13, 109.14, and 109.17, without changes to the proposed text as published in the March 29, 2024, issue of the *Texas Register* (49 TexReg 2021), and corrected in the April 12, 2024, issue of the *Texas Register* (49 TexReg 2348). The amended rules will not be republished.

The amended rules make nonsubstantive changes to the chapter. Specifically, the Board adopts amendments to §109.1, concerning Transactions Involving Existing Security Holders; §109.2, concerning Parent Subsidiary Transactions; §109.3, concerning Financial Institutions under the Texas Securities Act, §5.H; §109.4, concerning Securities Registration Exemption for Sales to Financial Institutions and Certain Institutional Investors; §109.5, concerning Dealer Registration Exemption for Sales to Financial Institutions and Certain Institutional Investors; §109.6, concerning Investment Adviser Registration Exemption for Investment Advice to Financial Institutions and Certain Institutional Investors; §109.7, concerning Secondary Trading Exemption under the Texas Securities Act, §5.O; §109.8, concerning Initial Offering Completed; §109.11, concerning Guarantee of Options; §109.13, concerning Limited Offering Exemptions; §109.14, concerning Oil, Gas, and Other Mineral Interests; and §109.17, concerning Banks under the Securities Act, §5.L.

The references to sections of the Texas Securities Act (Act) in §§109.1 - 109.8, 109.11, 109.13, 109.14, and 109.17 are updated to refer to the correct sections in the codified version of the Act in the Texas Government Code. The codification was adopted by HB 4171, 86th Legislature, 2019 Regular Session, and became effective January 1, 2022. The captions of §§109.3, 109.7, and 109.17 are also updated to refer to the codified version of the Act. The rest of the amendments make other nonsubstantive and cleanup changes.

Section 109.1 is amended to replace the references to the term "Securities and Exchange Commission" with "SEC" and to abbreviate a cite to the Code of Federal Regulations found in subsection (d). SEC and CFR are already defined terms in §107.2, concerning Definitions.

Sections 109.7(b), 109.8, 109.13, and 109.17 are amended to adjust the quotations to the Act in these provisions to be consistent with the codified Act.

Section 109.11 is amended to capitalize the term "Commissioner" for consistency.

Section 109.13 is amended to add a new definitions subsection in subsection (a) for use in this section, with the current text of that subsection being revised and reorganized into multiple paragraphs to incorporate the added definitions. Subsections (f), (g), and (h) of §109.13 are renamed with more descriptive and precise captions.

The references to the term "Securities and Exchange Commission" found in §109.13(f)(1) and (l)(3) are replaced with "SEC," which is already a defined term in §107.2, concerning Definitions.

Section 109.13(l) is amended to add "of this subsection" to paragraphs (3), (4), and (5) of that subsection. Cross references in this section are corrected and conformed to the other adopted changes to this section.

Statutory references are current and accurate and conform to the codified version of the Act; and terminology, quotations, and references are updated.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022 (HB 4171). Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Additionally, §§109.3, 109.4, 109.8, and 109.14 are also adopted under the authority of the Texas Government Code, §4005.024, as also adopted by HB 4171, which provides that the Board may prescribe new exemptions by rule. Finally, §109.5 and §109.6 are also adopted under the authority of the Texas Government Code, §4004.001, as also adopted by HB 4171, which provides the Board with the authority to prescribe new dealer, agent, investment adviser, or investment adviser representative registration exemptions by rule.

The adopted amendments to §§109.4, 109.13, and 109.14 affect the following sections of the Texas Securities Act: Texas Government Code Chapter 4003, Subchapters A, B, and C. The adopted amendments to §§109.5, 109.6, and 109.14 affect Chapter 4004 of the Act. The adopted amendments to §§109.1 - 109.4, 109.7, 109.8, 109.11, 109.13, 109.14, and 109.17 affect Chapter 4005, Subchapter A of the Act.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on June 28, 2024.

TRD-202402888
Travis J. Iles
Securities Commissioner
State Securities Board
Effective date: July 18, 2024
Proposal publication date: March 29, 2024
For further information, please call: (512) 305-8303

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TITLE 22. EXAMINING BOARDS

PART 9. TEXAS MEDICAL BOARD

CHAPTER 165. MEDICAL RECORDS

22 TAC §§165.7 - 165.9

The Texas Medical Board (Board) adopts new rules §165.7, Definitions, §165.8, concerning Abortion Ban Exception Performance and Documentation, and §165.9, concerning Complaints Regarding Abortions Performed. The new rules are being adopted with non-substantive changes to the proposed text as published in the April 5, 2024, issue of the *Texas Register* (49 TexReg 2164) and will be republished.

New §165.7, titled Definitions, describes the specific definitions and their sources for certain terms used in the new rules.

New §165.8, titled Abortion Ban Exception Performance and Documentation, explains that physicians must comply with all applicable laws, rules, and court opinions related to abortion in Texas. The rule also provides the minimum required information that must be included in the patient's medical record. The rule additionally makes clear that imminence of the threat to life or impairment of a major bodily function is not required to perform an abortion.

New §165.9, titled Complaints Regarding Abortions Performed, explains the procedures that the Board will utilize in the event a complaint is received. The rule also explains the limitation of any Board decision and that possible criminal or civil action under the law is separate and independent of any Board decision.

The Board received a significant number of comments. These comments included both written and oral comments. The oral comments were taken at the March 22, 2024, Board meeting and a stakeholder meeting held on May 20, 2024.

The majority of comments shared common concern over the proposed rules as published. There was uniform concern regarding the definitions in §165.7; most commenters felt the statutory definitions were not medically accurate. However, the Board does not have the authority to change statutory definitions, so no changes were made in response to these comments. Almost all commenters had concern over §165.8 as creating burdens and additional documentation that would adversely impact care, particularly the documentation of "adequate time to transfer" in §165.8(b)(5). The Board made changes in response to these comments to ensure no additional burdens were created for physicians caring for patients.

The Board received written comments regarding the proposed new rules from Steve and Amy Bresnen; Texas Medical Association (TMA); Texas Hospital Association (THA); Baylor Scott and White (BSW); Susan B. Anthony Society; Charolette Lozier Institute; Center for Reproductive Rights; Catholic Bishops Conference; Society of Maternal Fetal Medicine; American College of Obstetrics and Gynecology (ACOG); Public Rights Project; Texas Women's Health Caucus; individual physicians; and hundreds of private individuals, including use of form letters by two groups, "everyaction.com" and Texas Impact.

A summary of comments relating to the new rules and the Board's responses are as follows:

Comment by Steve and Amy Bresnen: The Bresnens filed a petition for rulemaking and a proposed rule. The Board declined the petition; however, the Board did proceed with proposing a rule it had drafted. The Bresnens opposed the Board's proposed rule and expressed a need for more definitions, as well as opposition to the documentation requirements as being onerous, delaying care, and without authority. They also expressed the need to begin the entire rule writing process again. The Bresnens filed several proposed new rules along with comments.

The first proposal included a completely new rule that created a "non-exhaustive" list of possible exceptions to the prohibition. It also included the creation of a "Panel on High-Risk Pregnancies" to develop a non-exhaustive list of conditions that may necessitate an abortion; the posting of this list of conditions by the Board (and provision of the list to the Texas Health and Human Services Commission [HHSC]); the posting of information of conditions to report to Department of State Health Services from abortion facilities; and finally, a completely new process for hearings on abortion exceptions and affirmative defenses, if Board action or a non-TMB action were brought against a physician.

The second and later proposal from the Bresnens was received during the comment period and provided for an extensive and exhaustive list of standards that would apply in a Board hearing if a case concerned abortion.

Response: TMB declines to accept either proposal on multiple grounds. Both proposals fundamentally change the informal hearing process and the statutorily created expert panel review process historically utilized by the Board.

The first proposal again asks for a non-exhaustive list of possible exceptions and conditions allowing abortions. The idea of any list is opposed by medical professionals and related associations, as well as by the Board. In medicine every patient and situation are unique and the intricacies of medicine and medical treatment that may accompany a patient cannot be captured by a list.

The entire process suggested in the first proposal goes beyond the disciplinary authority vested in the Board. The authority to enforce the majority of the provisions of Chapter 171 of the Health and Safety Code is vested in the HHSC Commissioner. See §171.005 of the Texas Health and Safety Code. Additionally, several provisions in Chapter 171 already allow for the hearing contemplated by this proposal, and the Board already has an exhaustive expert review and hearing process. Additionally, the proposal would create a redundant, duplicative, and completely unnecessary process. As to the proposed information gathering, reporting, and posting requirements, these items are already required and regulated by HHSC.

The Bresnens' second proposal includes a rebuttable presumption, application of the rules of evidence, and a clear and convincing standard in board hearings. This would transform the informal settlement conference into an evidentiary contested case hearing. The statutory standard in an informal board hearing is "to present facts that reasonably believe may be proven by competent evidence at a formal hearing." Additionally, the clear and convincing standard proposed alters the burden of proof well beyond the preponderance of evidence standard utilized for actual contested case hearings involving the board. The preponderance standard has been clearly established in multiple State Office of Administrative Hearings (SOAH) cases and substantial evidence reviews by state courts. The proposal exceeds any statutory authority of the Board, because it appears to set procedural and substantive rules for both SOAH hearings and civil courts reviewing a board action. For all these reasons, the Board declines to adopt these proposals.

Comment by Texas Medical Association (TMA): TMA opposed the Board's proposed rule. TMA asserted the need for more and medically accurate definitions, and they opposed the documentation requirements as being onerous, delaying care, and beyond the Board's authority. Generally, they stated the rule provided no help to physicians or patients and might lead to more confusion and uncertainty. They specifically objected to physicians having to follow all applicable court rulings as being burdensome and functionally difficult. TMA also asserted the rules could result in an inappropriate "checklist" approach to patient care.

Response: The Board cannot change statutory definitions and believes the definitions in the new rule are sufficient. Additionally, the Board does not believe that physicians being required to follow court rulings is burdensome and functionally difficult, as it is already a requirement under physician licensure. The Board also disagrees with TMA that rules could result in a "checklist" approach to patient care. However, the Board did make changes in response to the comment to documentation requirements to make clear that documentation is not required before a procedure can be performed and to clarify what items are required to be documented.

Comment by Texas Hospital Association (THA): THA opposed the Board's proposed rule. THA asserted the need for more and medically accurate definitions, and they opposed the documentation requirements as being onerous and delaying care. Generally, they stated the rule provided no help to physicians or patients. Further, THA implied that because a majority of these procedures take place in hospitals, the Board lacked authority to make rules related to the operation and regulation of hospitals.

Response: The Board cannot change statutory definitions and believes the definitions in the new rule are sufficient. The Board also disagrees that it lacks authority over physicians practicing in hospitals. However, the Board did make changes in response to the comment to documentation requirements to make clear that documentation is not required before a procedure can be performed and to clarify what items are required to be documented.

Comment by Baylor Scott and White (BSW): BSW opposed the Board's proposed rule. BSW asserted the need for expanded definitions, and they opposed the documentation requirements as being onerous, delaying care, and exceeding existing law related to documentation.

Response: The Board cannot change statutory definitions and believes the definitions in the new rule are sufficient. However, the Board did make changes in response to the comment to documentation requirements to make clear that documentation is not required before a procedure can be performed and to clarify what items are required to be documented.

Comment by Susan B. Anthony Society: The comment wanted more expanded definitions and explanation of certain statutory terms in the rule.

Response: The Board cannot change statutory definitions and believes the definitions in the new rule are sufficient. The Board declined to make any changes in response to this comment.

Comment by Charolette Lozier Institute: The comment expressed significant concerns which appeared to oppose the Board's proposed rule. The group asserted the need for expanded definitions; they asked for an explanation of the difference between a medically indicated separation and abortion. They also had concerns generally over certain documentation requirements.

Response: The Board cannot change statutory definitions and believes the definitions in the new rule are sufficient. However, the Board did make changes in response to the comment to documentation requirements to make clear that documentation is not required before a procedure can be performed and to clarify what items are required to be documented.

Comment by Center for Reproductive Rights (CRR): The comment opposed the Board's proposed rule. CRR asserted the need for more expanded and medically accurate definitions, and they opposed the documentation requirements as being onerous and delaying care. Generally, they stated the rule provided no help to physicians or patients. They further asserted that the documentation rules contradict existing law in the Texas Health and Safety Code and that the proposed rules are beyond Board's statutory authority.

Response: The Board cannot change statutory definitions and believes the definitions in the new rule are sufficient. However, the Board did make changes in response to the comment to documentation requirements to make clear that documentation is not required before a procedure can be performed and to clarify what items are required to be documented.

Comment by Catholic Bishops Conference: The comment generally favored the Board's proposed rule. The group, however, did assert the need to expand on the definition of ectopic pregnancy. They also opposed the documentation requirements as unnecessary. The group suggested current recordkeeping requirements in existing laws were adequate.

Response: The Board cannot change statutory definitions and believes the definitions in the new rule are sufficient. However, the Board did make changes in response to the comment to documentation requirements to make clear that documentation is not required before a procedure can be performed and to clarify what items are required to be documented.

Comment by Society of Maternal Fetal Medicine: The comment opposed the Board's proposed rule. The group asserted the need for more and medically accurate definitions, and they opposed the documentation requirements as being onerous and delaying care. Generally, they stated the rule provided no help to physicians or patients.

Response: The Board cannot change statutory definitions and believes the definitions in the new rule are sufficient. However, the Board did make changes in response to the comment to doc-

umentation requirements to make clear that documentation is not required before a procedure can be performed and to clarify what items are required to be documented.

Comment by American College of Obstetrics and Gynecology (ACOG): ACOG opposed the Board's proposed rule. ACOG asserted the definitions were redundant, and they opposed the documentation requirements as being onerous and delaying care. Generally, they stated the rule provided no help to physicians or patients. They also opposed creating any lists or "checklist" approach as advocated by some groups.

Response: The Board cannot change statutory definitions and believes the definitions in the new rule are sufficient. However, the Board did make changes in response to the comment to documentation requirements to make clear that documentation is not required before a procedure can be performed and to clarify what items are required to be documented. Additionally, the Board agrees that lists and "checklist" approaches advocated by some are not appropriate.

Comment by Public Rights Project: The comment opposed the Board's proposed rules. The group asserted the need for expanded definitions, and they opposed the requirements as being without statutory authority. Additionally, they believe the requirement for documentation goes beyond and conflicts with existing law such as Chapter 171 of the Health and Safety Code. Generally, they stated the rule provided no guidance to physicians.

Response: The Board cannot change statutory definitions and believes the definitions in the new rule are sufficient. However, the Board did make changes in response to the comment to documentation requirements to make clear that documentation is not required before a procedure can be performed and to clarify what items are required to be documented.

Comment by Texas Women's Health Caucus: The comment opposed TMB's proposed rule. The group asserted the need for more and medically accurate definitions, and they opposed the documentation requirements as being onerous and delaying care. Generally, they stated the rules provided no help to physicians or patients.

Response: The Board cannot change statutory definitions and believes the definitions in the new rule are sufficient. However, the Board did make changes in response to the comment to documentation requirements to make clear that documentation is not required before a procedure can be performed and to clarify what items are required to be documented.

There were a number of physicians that commented individually. They were generally opposed to the rule.

Summary of Comments: A majority of comments asked for further definitions of statutory terms and the addition of certain exceptions to the prohibition.

Response: The Board declines to make any changes in response to these comments. The Board has repeatedly clarified it cannot change the law or add exceptions for rape or incest. Nor can the Board add to statutory definitions. This is why the Board used references to existing statutes for certain terms such as "abortion," "reasonable medical judgment," and "major bodily function."

Summary of Comments: Numerous comments asserted that the definition of "abortion" was not medically accurate and that the use of the term "unborn child" was improper and instead should be "fetus."

Response: The Board declines to make changes in response to these comments because these are the statutory definitions, and any changes to the statutory definitions require legislative action.

Summary of Comments: Commenters wanted the definition of ectopic pregnancy to be expanded, added to, or examples included.

Response: In response, Board removed the proposed definition of ectopic pregnancy in §165.7. Many commenters asked that references to ectopic pregnancy more closely track with existing statutory references on the matter. Therefore, the Board made changes and the term "ectopic pregnancy" as used in §74.552 of the Texas Civil Practice & Remedies Code is now referenced in new §165.8(b)(6) and §165.9(e).

Summary of Comments: Almost every commenter said that Board needed to clarify that imminent risk of death to the patient is not required for an abortion.

Response: The Board made changes in response to this comment and clarified in new §165.8(d) that "imminence of death or impairment of a major bodily function is not required."

Summary of Comments: The comments asserted §165.8 overall added additional mandatory documentation requirements that were unnecessary. Several comments asked the Board to revise the rule to refer to documentation as set out in Chapter 171 of the Texas Health and Safety Code.

Response: The Board disagrees with these comments, and no changes were made in response to these comments. The rule does not change existing documentation requirements in §165.1. Rather, new §165.8 correlates with both existing rule (§165.1 of the Board's rules) and §171.008 of the Texas Health and Safety Code. Specifically, new §165.8 requires documentation of the medical emergency, while the corollary in §165.1 requires documentation of the reason for the visit and clinical assessment, and the corollary in §171.008 of the Texas Health and Safety Code requires documentation of the condition to be addressed. Section 165.8 requires documentation of the risk of death or substantial impairment of bodily function and why abortion was performed; the corollary in §165.1 requires relevant risk factors be identified and the treatment plan documented, and the corollary in §171.008 of the Texas Health and Safety Code requires documentation of the medical rationale for the abortion.

Summary of Comments: Commenters asserted they believed proposed §165.8 made documentation a requirement for physicians before performing an abortion on a patient experiencing a medical emergency.

Response: The Board disagrees with this assertion; documentation is not required before addressing an emergency. However, to ensure it is clear documentation can be done after the procedure, if the situation does not allow for documentation before the procedure, the Board added §165.8(c) to clarify the required documentation must be completed within 7 days of the procedure.

Summary of Comments: Virtually every commenter objected to proposed §165.8(b)(7). This provision stated a physician must document in the patient's medical record "whether there was adequate time to transfer the patient, by any means available to a facility or physician with a higher level of care or expertise to avoid performing an abortion." The concern was that every time a patient presented there would need to be documentation say-

ing why the physician did or did not transfer, and this would delay care.

Response: The Board disagrees that proposed §165.8(b)(7) was mandatory; as discussed previously, these considerations must be documented but only if applicable. However, due to the overwhelming concern stated, the Board removed this provision from §165.8 completely. In response, the Board revised subsection (c) of §165.9 to clarify that the existing statutory review process related to standard of care already considers relevant information including transfer decisions, if applicable, in any medical emergency situation being reviewed.

§165.7. Definitions.

The following words and terms, when used in this section, shall have the following meanings:

(1) "Abortion" means the act of using or prescribing an instrument, a drug, a medicine, or any other substance, device, or means with the intent to cause the death of an unborn child of a woman known to be pregnant. The term does not include birth control devices or oral contraceptives. An act is not an abortion if the act is done with the intent to:

(A) save the life or preserve the health of an unborn child;

(B) remove a dead, unborn child whose death was caused by spontaneous abortion; or

(C) remove an ectopic pregnancy.

This definition is found at Chapter 245, §245.002(1) of the Texas Health and Safety Code.

(2) "Reasonable medical judgment" means medical judgment made by a reasonably prudent physician, knowledgeable about a case and the treatment possibilities for the medical conditions involved. This definition is found at Chapter 170A, §170A.001(4) of the Texas Health and Safety Code.

(3) "Medical emergency" means a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed. This definition is found at Chapter 171, §171.002(3) of the Texas Health and Safety Code.

(4) "Major bodily function" includes but is not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. This definition is found at Chapter 21, §21.002(11-a) of the Texas Labor Code.

§165.8. Abortion Ban Exception Performance and Documentation.

(a) An abortion shall not be performed in this state unless it is performed in compliance with all provisions of Texas Health and Safety Code, Chapters 170, 170A, and 171, in addition to any other applicable federal and state statutes, rules, and court opinions.

(b) In addition to the requirements above, the physician must document in the patient's medical record:

(1) that the abortion is performed in response to a medical emergency;

(A) that places the woman in danger of death unless the abortion is performed or induced; or

(B) to prevent a serious risk of substantial impairment of a major bodily function of the patient unless the abortion is performed or induced;

(2) the major bodily function(s) at serious risk of substantial impairment;

(3) what placed the woman in danger of death, or what was the serious risk of substantial impairment;

(4) how the danger of death or serious risk was determined;

(5) if applicable, the rationale on why the abortion was performed pursuant to §170A.002 (b)(3) of the Texas Health and Safety Code; and

(6) if applicable, that the treatment was in response to an ectopic pregnancy at any location or a previable premature rupture of membranes, as those terms are used in §74.552 of the Texas Civil Practice and Remedies Code.

(c) The above documentation must be made before and/or after performing the procedure, but the initial documentation must be made within 7 days of the procedure.

(d) Imminence of the threat to life or impairment of a major bodily function is not required.

§165.9. Complaints Regarding Abortions Performed.

(a) The Texas Medical Board will review complaints and perform investigations regarding abortions using the Board's standard complaint process.

(b) If a complaint is determined to be jurisdictional to the Board, the Board will use independent expert physicians, as provided in §154.0561 of the Texas Occupations Code, to review the available information, including the patient's medical record.

(c) As done in other complaints, the independent expert physicians may review all relevant information including one or more of the following:

(1) how the decision was made to proceed with an abortion based on reasonable medical judgement including:

(A) what diagnostic imaging, test results, medical literature, second opinions, and/or medical ethics committees that were used or consulted; and

(B) what alternative treatments were attempted and failed or were ruled out; and

(2) whether there was adequate time to transfer the patient to a facility or physician with a higher level of care or expertise to avoid performing an abortion.

(d) Any decision by the Board, to either dismiss the complaint or discipline the physician who is the subject of a complaint, is separate and independent of any other possible criminal or civil action under the law. If the Board is aware the licensee is subject to a pending criminal or civil action, then the Board may defer or delay action. Depending on the outcome of criminal or civil action, the Board retains authority to investigate and potentially take disciplinary action.

(e) The Board shall not take any disciplinary action against a physician who exercised reasonable medical judgment in providing medical treatment to a pregnant woman as described by §74.552 of the Texas Civil Practice and Remedies Code.

The new rules are adopted under the authority of the Texas Occupations Code, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary to govern its own proceedings and perform its duties.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on June 27, 2024.

TRD-202402831
Scott Freshour
General Counsel
Texas Medical Board
Effective date: July 17, 2024
Proposal publication date: April 5, 2024
For further information, please call: (512) 305-7030

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PART 41. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

CHAPTER 882. APPLICATIONS AND LICENSING

SUBCHAPTER A. LICENSE APPLICATIONS

22 TAC §882.2

The Texas Behavioral Health Executive Council adopts amendments to §882.2, relating to General Application File Requirements. Section 882.2 is adopted without changes to the proposed text as published in the April 12, 2024, issue of the *Texas Register* (49 TexReg 2249) and will not be republished.

Reasoned Justification.

The adopted amendments clarify what information Council staff can rely upon when verifying an applicant's out-of-state licensure. The amendments allow the Council to rely on official verifications received directly from the other jurisdiction, information reflected on a government website, or verbal or email verification directly from the other jurisdiction. The sources of verification will assist the Council in more efficiently and effectively verifying an applicant's out-of-state licensure.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

One commenter opposed the rule amendment on the grounds that they believe the Council should be eliminated and regulation returned solely to individual professional boards. Another commenter opposed the amendment on the grounds that the Council makes too many rule changes. A third commenter disagreed with the proposed amendment, but focused their comments on opposition to fingerprinting requirements.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

One commenter expressed enthusiastic support for the proposed change in the hopes that the amendment will help streamline the licensure process. Another commenter expressed neutrality toward the proposal but supported the overall goal of addressing upstream issues in the licensure process. One commenter supported the amendment but asked whether documentation of licensure requirements will be required to be submitted again when changing license types.

Agency Response.

The Council declines to not adopt the rule as requested by commenters. The proposed amendment is a necessary rule change to improve the process by with the Council approves license applications. In addition, the Council can neither abolish the agency nor eliminate fingerprinting requirements, both of which are required by statute.

The Council thanks commenters for their supportive comments, and notes one comment was received which neither supported nor opposed the rule change, but rather asked a question unrelated to the rule proposal.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on June 26, 2024.

TRD-202402806
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Executive Director
Texas Behavioral Health Executive Council
Effective date: July 16, 2024
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For further information, please call: (512) 305-7706

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TITLE 30. ENVIRONMENTAL QUALITY

PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 311. WATERSHED PROTECTION RULES

SUBCHAPTER H. REGULATION OF QUARRIES IN THE JOHN GRAVES SCENIC RIVERWAY

30 TAC §§311.71 - 311.75, 311.77, 311.79 - 311.82

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts the amendment to §§311.71 - 311.75, 311.77, and 311.79 - 311.82.

Section 311.71 is adopted with changes to the proposed text as published in the January 26, 2024, issue of the *Texas Register*

(49 TexReg 387), and therefore will be republished. Sections 311.72 - 311.75, 311.77, and 311.79 - 311.82 are adopted without changes to the proposed text and will not be republished.

Background and Summary of the Factual Basis for the Adopted Rules

House Bill (HB) 1688, 88th Texas Regular Legislative Session, amended Texas Water Code (TWC), Chapter 26 by revising Subchapter M (Water Quality Protection Areas); specifically, §§26.551 - 26.562, by expanding the Pilot Program originally established for quarries in the John Graves Scenic Riverway (Brazos River Basin) to include the "Coke Stevenson Scenic Riverway" (Colorado River Basin). The statute addresses permitting, financial responsibility, inspections, water quality sampling, enforcement, cost recovery, and interagency cooperation regarding quarry operations. The Coke Stevenson Scenic Riverway is defined as the South Llano River in Kimble County, located upstream of the river's confluence with the North Llano River at the City of Junction.

TCEQ is adopting amendments to 30 Texas Administrative Code (TAC) Chapter 311 (Watershed Protection Rules), Subchapter H (Regulation of Quarries in the John Graves Scenic Riverway), which implements TWC, §§26.551 - 26.554 and 26.562. The amendment to Subchapter H expands the permitting and financial assurance requirements for quarries to the new Coke Stevenson Scenic Riverway water quality protection area, continues the requirements in the John Graves Scenic Riverway water quality protection area, and extends the expiration date of the pilot program to September 1, 2027.

Section by Section Discussion

The adopted amendment to Chapter 311, Subchapter H, removes reference to "the John Graves Scenic Riverway" from the subchapter title and replaces it with "Certain Water Quality Protection Areas;" the amended title is "Regulation of Quarries in Certain Water Quality Protection Areas." This change is required to provide clarity that the applicability extends to all water quality protection areas identified in the subchapter.

Amended Chapter 311, Subchapter H removes references to "the John Graves Scenic Riverway" and replaces them with reference to "a water quality protection area" throughout the subchapter to encompass both the John Graves Scenic Riverway and Coke Stevenson Scenic Riverway water quality protection areas.

Amended §311.71 (Definitions) defines one new term and revises one term used within the subchapter to be consistent with the definitions found in HB 1688. The new term "Coke Stevenson Scenic Riverway" means the South Llano River in Kimble County, located upstream of the river's confluence with the North Llano River at the City of Junction. This definition is revised from proposal to remove the additional "and its contributing watershed" text which ensures the definition is consistent with the definition in HB 1688. The revised term "Water quality protection areas" means the Brazos River and its contributing watershed within Palo Pinto and Parker Counties, Texas, downstream from the Morris Shepard Dam on the Possum Kingdom Reservoir in Palo Pinto County, and extending to the county line between Parker and Hood Counties, Texas; and the South Llano River and its contributing watershed in Kimble County, located upstream of the river's confluence with the North Llano River at the City of Junction. The terms "responsible party" and "water body" are revised for clarity and to remove unnecessary language.

Amended §311.72 (Applicability) identifies activities regulated by this subchapter and activities specifically excluded from regulation. Activities regulated by this subchapter include quarrying within a water quality protection area in the John Graves Scenic Riverway and Coke Stevenson Scenic Riverway, as identified in subsection (a). In addition, amended §311.72 specifies September 1, 2027, as the new expiration date for Chapter 311, Subchapter H, consistent with HB 1688.

Amended §311.73 (Prohibitions) identifies areas within the newly defined water quality protection area where quarrying is prohibited, consistent with HB 1688. The amendment to §311.73(a), consistent with existing regulations for the John Graves Scenic Riverway, prohibits the construction or operation of any new quarry, or the expansion of an existing quarry, located within 200 feet of any water body within the Coke Stevenson Scenic Riverway. Consistent with similar regulations for the John Graves Scenic Riverway, the construction or operation of any new quarry, or the expansion of an existing quarry, located between 200 feet and 1,500 feet of any water body in the Coke Stevenson Scenic Riverway is prohibited except where the requirements in §§311.75(2), 311.77, and 311.78(b) are met. For the purposes of this subchapter, a new quarry is any quarry that commenced operations after September 1, 2005. An existing quarry is any quarry that was in operation prior to September 1, 2005. Expansion of an existing quarry refers to any change to an existing quarry that results in additional disturbance, including the construction of additional processing areas.

Just as with the John Graves Scenic Riverway regulations, throughout this subchapter, prohibitions, application requirements, and performance criteria are established for quarries located in the Coke Stevenson Scenic Riverway based upon the quarry's location relative to a navigable water body (as defined in §311.71). Where location is established as the distance from a water body, the distance is measured from the gradient boundary. Federal Emergency Management Agency flood hazard maps identify the 100-year floodplain relative to a water body.

Amended §311.82, Existing Quarries, requires existing quarries that are subject to the adopted rule to seek and obtain an authorization in accordance with §311.74(b), if they have not done so before the effective date of this rule. The existing quarries in the John Graves Scenic Riverway that already obtained an authorization in accordance with §311.74(b) do not need to reapply for coverage under this rulemaking. However, any new or expanding quarries within the John Graves Scenic Riverway or the Coke Stevenson Scenic Riverway must apply for permit coverage. Paragraph (c) is modified to clarify that existing quarries located 200 to 1,500 feet of a water body in the Coke Stevenson Scenic Riverway must submit an application for permit coverage within 180 days of the effective date of the subchapter.

Final Regulatory Impact Determination

TCEQ reviewed the adopted rulemaking in consideration of the regulatory analysis of major environmental rules required by Texas Government Code (TGC), §2001.0225 and determined that the rulemaking is not subject to §2001.0225(a) because it does not meet the definition of a "Major environmental rule" as defined in §2001.0225(g)(3). The following is a summary of that review.

Section 2001.0225 applies to a "Major environmental rule" adopted by a state agency, the result of which is to exceed standards set by federal law, exceed express requirements

of state law, exceed requirements of delegation agreements between the state and the federal government to implement a state and federal program, or adopt a rule solely under the general powers of the agency instead of under a specific state law. A "Major environmental rule" is a rule, the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector or the state.

The 88th Texas Legislature enacted HB 1688, amending TWC, Chapter 26, Subchapter M (Water Quality Protection Areas) to include the Coke Stevenson Scenic Riverway, defined by HB 1688 as the South Llano River in Kimble County, located upstream of the river's confluence with the North Llano River at the City of Junction, in TCEQ's Pilot Program for water quality protection areas that the 79th Texas Legislature enacted through Senate Bill (SB) 1354 for a certain designated portion of the Brazos River. That designated portion of the Brazos River, defined by SB 1354 as the Brazos River Basin, and its contributing watershed, located downstream of the Morris Shepard Dam on the Possum Kingdom Reservoir in Palo Pinto County, Texas, and extending to the county line between Parker and Hood Counties, Texas, is designated as the John Graves Scenic Riverway and is subject to specific permitting and enforcement regulations that SB 1354 established. The Pilot Program created specific regulations for individual or general permits for quarries, depending on their proximity to any water body in the area designated as the John Graves Scenic Riverway. HB 1688 postpones the Pilot Program's end, and the expiration of provisions governing the Pilot Program, from September 1, 2025, to September 1, 2027, and reenacts provisions relating to the reclamation and restoration fund account.

As the Bill Analysis from the Natural Resources Committee of the Texas House of Representatives makes clear, the 88th Texas Legislature enacted HB 1688 with the aim of protecting the beds, bottoms, and banks of a stretch of the South Llano River from mining and quarrying activities. HB 1688 seeks to address this issue by amending the TWC to include the Coke Stevenson Scenic Riverway in the same Pilot Program as the John Graves Scenic Riverway. Specifically, HB 1688 amends Chapter 26 of the TWC by revising Subchapter M to make the Pilot Program requirements for the John Graves Scenic Riverway, related to permitting, financial responsibility, inspections, water quality sampling, enforcement, cost recovery, and interagency cooperation regarding quarry operations, applicable to the stretch of the South Llano River defined by HB 1688 as the Coke Stevenson Scenic Riverway.

Therefore, the specific intent of the adopted rulemaking is related to extending existing protections for certain designated portions of Texas rivers to additional designated portions of Texas rivers in accordance with HB 1688.

HB 1688 amends Chapter 26 of the TWC by revising Subchapter M (specifically §§26.551 - 26.562) and the adopted rulemaking amends TCEQ Watershed Protection Rules, found at 30 TAC Chapter 311, Subchapter H, which implements TWC, §§26.551 - 26.554 and 26.562. The amendment to Subchapter H expands the permitting and financial assurance requirements for quarries to the new Coke Stevenson Scenic Riverway, continues the requirements in the John Graves Scenic Riverway, and extends the expiration date of the Pilot Program to September 1, 2027.

Certain aspects of TCEQ's Watershed Protection Rules are intended to protect the environment or reduce risks to human health from environmental exposure. However, the adopted rulemaking will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, or jobs; nor will the adopted rulemaking adversely affect in a material way the environment, or the public health and safety of the state or a sector of the state. Therefore, the adopted rulemaking does not fit the TGC, §2001.0225 definition of "Major environmental rule".

Even if this rulemaking was a "Major environmental rule," this rulemaking meets none of the criteria in §2001.0225 for the requirement to prepare a full Regulatory Impact Analysis. First, this rulemaking is not governed by federal law. Second, it does not exceed state law but rather extends state law and TCEQ rules to adopted and effective state laws. Third, it does not come under a delegation agreement or contract with a federal program, and finally, is not being adopted under TCEQ's general rulemaking authority. This rulemaking is being adopted under a specific state statute enacted in HB 1688 of the Texas 2023 legislative session and implements existing state law found at TWC, §26.0135 that states that the commission must establish strategic and comprehensive monitoring of water quality and the periodic assessment of water quality in each watershed and river basin of the state. Because this adoption does not constitute a major environmental rule, a regulatory impact analysis is not required.

Therefore, the commission does not adopt the rule solely under the commission's general powers. The commission invited public comment regarding the draft regulatory impact analysis determination during the public comment period. No comments were received on the regulatory impact analysis determination.

Takings Impact Assessment

TCEQ evaluated the adopted rulemaking and performed an analysis of whether it constitutes a taking under TGC, Chapter 2007. The following is a summary of that analysis.

Under TGC, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or a governmental action that affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action and is the producing cause of a reduction of at least 25% in the market value of the affected private real property, determined by comparing the market value of the property as if governmental action is not in effect and the market value of the property determined as if the governmental action is in effect.

The specific purpose of the adopted rulemaking is to implement the legislative amendments to the TWC in HB 1688 by amending TCEQ's Watershed Protection Rules to extend existing protections for certain designated portions of Texas rivers to additional designated portions of Texas rivers. TCEQ's Watershed Protection Rules do not regulate property but instead regulate water quality in the specific watersheds. The adopted rulemaking will substantially advance this stated purpose by adopting new rule language that includes the Coke Stevenson Scenic Riverway in TCEQ's Watershed Protection Rules.

Promulgation and enforcement of the adopted rules will not be a statutory or constitutional taking of private real property because, as the commission's analysis indicates, TGC, Chapter 2007 does not apply to these adopted rules because these rules do not impact private real property in a manner that would require compensation to private real property owners under the United States Constitution or the Texas Constitution. Specifically, the adopted rulemaking does not apply to or affect any landowner's rights in any private real property because it does not burden (constitutionally), restrict, or limit any landowner's right to real property and reduce any property's value by 25% or more beyond that which would otherwise exist in the absence of the regulations. The primary purpose of the adopted rules is to implement HB 1688 by including the Coke Stevenson Scenic Riverway in the same TCEQ Pilot Program as the John Graves Scenic Riverway. The adopted rulemaking is reasonably taken to fulfill requirements of state law. Therefore, the adopted rulemaking will not cause a taking under TGC, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the amended rules and found that they are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(a)(6). Therefore, the adopted rules are not subject to the Texas Coastal Management Program.

The commission invited public comment regarding the consistency with the coastal management program during the public comment period. No comments were received regarding the Coastal Management Program.

Effect on Sites Subject to the Federal Operating Permits Program

This rulemaking has no effect on sites subject to the Federal Operating Permits Program.

Public Comment

The commission offered a public hearing on February 26, 2024. The 30-day comment period closed on February 26, 2024. The commission did not receive any comments.

Statutory Authority

The Texas Commission on Environmental Quality (the commission or TCEQ) adopts these amendments to TCEQ rules under the authority of Texas Water Code (TWC). TWC, §5.013 establishes the general jurisdiction of the commission, while TWC §5.102 provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC, §5.103. TWC §5.103 requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state. TWC, §5.120 requires the commission to administer the law so as to promote judicious use and maximum conservation and protection of the environment and the natural resources of the state. Lastly, TWC, §26.0135 requires the commission to establish the strategic and comprehensive monitoring of water quality and the periodic assessment of water quality in each watershed and river basin of the state.

The adopted amendments implement House Bill 1688, 88th Texas Legislature (2023), TWC, §§5.013, 5.102, 5.103, 5.120, and 26.0135.

§311.71. Definitions.

The following words and terms, when used in the subchapter, have the following meanings.

(1) 25-year, 24-hour rainfall event--The maximum rainfall event with a probable recurrence interval of once in 25 years, with a duration of 24 hours, as defined by the National Weather Service and Technical Paper Number 40, "Rainfall Frequency Atlas of the U.S.," May 1961, and subsequent amendments; or equivalent regional or state rainfall information.

(2) Aggregates--Any commonly recognized construction material originating from a quarry or pit by the disturbance of the surface, including dirt, soil, rock asphalt, granite, gravel, gypsum, marble, sand, stone, caliche, limestone, dolomite, rock, riprap, or other nonmineral substance. The term does not include clay or shale mined for use in manufacturing structural clay products.

(3) Aquifer--A saturated permeable geologic unit that can transmit, store, and yield to a well, the quality and quantities of groundwater sufficient to provide for a beneficial use. An aquifer can be composed of unconsolidated sands and gravels; permeable sedimentary rocks, such as sandstones and limestones; and/or heavily fractured volcanic and crystalline rocks. Groundwater within an aquifer can be confined, unconfined, or perched.

(4) Best management practices--Any prohibition, management practice, maintenance procedure, or schedule of activity designed to prevent or reduce the pollution of water in the state. Best management practices include treatment, specified operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage areas.

(5) Coke Stevenson Scenic Riverway -- The South Llano River in Kimble County, located upstream of the river's confluence with the North Llano River at the City of Junction.

(6) John Graves Scenic Riverway--That portion of the Brazos River Basin, and its contributing watershed, located downstream of the Morris Shepard Dam on the Possum Kingdom Reservoir in Palo Pinto County, Texas, and extending to the county line between Parker and Hood Counties, Texas.

(7) Natural hazard lands--Geographic areas in which natural conditions exist that pose or, as a result of quarry operations, may pose a threat to the health, safety, or welfare of people, property, or the environment, including areas subject to landslides, cave-ins, large or encroaching sand dunes, severe wind or soil erosion, frequent flooding, avalanches, and areas of unstable geology.

(8) Navigable--Designated by the United States Geological Survey (USGS) as perennial on the most recent topographic map(s) published by the USGS, at a scale of 1:24,000.

(9) Operator--Any person engaged in or responsible for the physical operation and control of a quarry.

(10) Overburden--All materials displaced in an aggregates extraction operation that are not, or reasonably would not be expected to be, removed from the affected area.

(11) Owner--Any person having title, wholly or partly, to the land on which a quarry exists or has existed.

(12) Pit--An open excavation from which aggregates have been, or are being, extracted with a depth of five feet or more below the adjacent and natural ground level.

(13) Quarry--The site from which aggregates for commercial sale are being, or have been, removed or extracted from the earth to form a pit, including the entire excavation, stripped areas, haulage ramps, and the immediately adjacent land on which the plant process-

ing the raw materials is located. The term does not include any land owned or leased by the responsible party not being currently used in the production of aggregates for commercial sale or an excavation to mine clay or shale for use in manufacturing structural clay products.

(14) Quarrying--The current and ongoing surface excavation and development without shafts, drafts, or tunnels, with or without slopes, for the extraction of aggregates for commercial sale from natural deposits occurring in the earth.

(15) Reclamation--The land treatment processes designed to minimize degradation of water quality, damage to fish or wildlife habitat, erosion, and other adverse effects from quarries. Reclamation includes backfilling, soil stabilization and compacting, grading, erosion control measures, appropriate revegetation, or other measures, as appropriate.

(16) Responsible party--Any owner, operator, lessor, or lessee who is primarily responsible for overall function and operation of a quarry located in a water quality protection area.

(17) Restoration--Those actions necessary to change the physical, chemical, and/or biological qualities of a receiving water body in order to return the water body to its background condition. Restoration includes on- and off-site stabilization to reduce or eliminate an unauthorized discharge, or substantial threat of an unauthorized discharge from the permitted site.

(18) Structural controls--Physical, constructed features that prevent or reduce the discharge of pollutants. Structural controls include, but are not limited to, sedimentation/detention ponds; velocity dissipation devices such as rock berms, vegetated berms, and buffers; and silt fencing.

(19) Tertiary containment--A containment method by which an additional wall or barrier is installed outside of the secondary storage vessel or other secondary barrier in a manner designed to prevent a release from migrating beyond the tertiary wall or barrier before the release can be detected.

(20) Water body--Any navigable watercourse, river, stream, or lake within a water quality protection area.

(21) Water quality protection areas--

(A) The portion of the Brazos River and its contributing watershed, located downstream of the Morris Shepard Dam on the Possum Kingdom Reservoir in Palo Pinto County, and extending to the county line between Parker and Hood Counties, Texas; and

(B) the South Llano River and its contributing watershed in Kimble County, located upstream of the river 's confluence with the North Llano River at the City of Junction.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 11. TEXAS JUVENILE JUSTICE DEPARTMENT

CHAPTER 380. RULES FOR STATE-OPERATED PROGRAMS AND FACILITIES

The Texas Juvenile Justice Department (TJJD) adopts new 37 TAC §380.8597 (concerning certain actions by the executive director) and §380.9147 (concerning youth career and technical education advisory committee) without changes to the proposed text as published in the March 8, 2024, issue of the *Texas Register* (49 TexReg 1429). The new rules will not be republished.

SUMMARY OF CHANGES

The new §380.8597 establishes that TJJD tracks the frequency with which the executive director takes certain actions and reports the resulting data to the TJJD Board and the Sunset Advisory Committee; includes a list of actions and explain that TJJD must track the frequency the executive director takes those actions; and explains that TJJD must compile frequency data and provide that date to the Board and the Sunset Advisory Committee.

The new §380.9147 establishes the Youth Career and Technical Education Advisory Committee, which assists TJJD with overseeing and coordinating vocational training for youth in state custody; describes the duties and goals of the committee; describes the composition of the committee's membership and the appointment of the presiding officer; and includes the following: information pertaining to ex officio committee members, an explanation of what constitutes a quorum, term lengths of committee members, an explanation of how to fill vacancies on the committee, an explanation that the appearance of conflicts of interest should be avoided, a description of updates the advisory council's presiding officer provides to the Board; and information about other statutory requirements.

PUBLIC COMMENTS

TJJD received a public comment from Disability Rights Texas.

Comment: Language should be added stating that the executive director shall track the frequency of notification to the Texas Correctional Office on Offenders with Medical or Mental Impairments of planned discharges to the community.

Response: The proposed rule text is consistent with requirements that TJJD track certain actions to achieve compliance with state statute. TJJD welcomes the opportunity discuss this subject further to address potential gaps in information tracking of which the commenters are aware but does not believe it warrants inclusion in a rule which is designed specifically to achieve statutory requirements.

SUBCHAPTER A. ADMISSION, PLACEMENT, RELEASE, AND DISCHARGE

37 TAC §380.8597

STATUTORY AUTHORITY

Section 380.8597 is adopted under §242.003, Human Resources Code, which requires the Board to adopt rules appropri-

ate to properly accomplish TJJD's functions and to adopt rules for governing TJJD schools, facilities, and programs.

The new section is also adopted under §203.002, Human Resources Code (as amended by SB 1727, 88th Legislature, Regular Session), which requires TJJD to track the frequency with which the executive director takes certain actions and to report the resulting data to the Board and the Sunset Advisory Commission.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on June 25, 2024.

TRD-202402789
Jana L. Jones
General Counsel
Texas Juvenile Justice Department
Effective date: July 15, 2024
Proposal publication date: March 8, 2024
For further information, please call: (512) 490-7278

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SUBCHAPTER C. PROGRAM SERVICES
DIVISION 2. EDUCATION PROGRAMS

37 TAC §380.9147

STATUTORY AUTHORITY

Section 380.9147 is adopted under §242.003, Human Resources Code, which requires the Board to adopt rules appropriate to properly accomplish TJJD's functions and to adopt rules for governing TJJD schools, facilities, and programs.

The new section is also adopted under §203.0083, Human Resources Code (as enacted by SB 1727, 88th Legislature, Regular Session), which requires the Board to create a youth career and technical education advisory committee and to adopt rules on the committee's purpose, goals, and membership.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Jana L. Jones
General Counsel
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Effective date: July 15, 2024
Proposal publication date: March 8, 2024
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CHAPTER 380. RULES FOR STATE-OPERATED PROGRAMS AND FACILITIES

The Texas Juvenile Justice Department (TJJD) adopts amendments to §380.8767 (Crisis Stabilization Unit) and §380.9571 (Procedure for Mental-Health-Status Review Hearing) without changes to the proposed text as published in the March 8, 2024, issue of the *Texas Register* (49 TexReg 1431). The amended rules will not be republished.

SUMMARY OF CHANGES

The amendments to §380.8767 clarify that a mental-health-status review hearing must be held for each youth within 72 hours (rather than 96 hours) after the youth's arrival at the stabilization unit.

The amendments to §380.9571 clarify that: 1) a mental-health-status review hearing must be held for each youth within 72 hours (rather than 96 hours) after the youth's arrival at the stabilization unit; and 2) if the hearing manager determines an unavoidable absence would prevent a key witness or party from attending the hearing, the hearing may be rescheduled to the earliest possible time but not later than 72 hours (rather than 96 hours) from the original scheduled hearing.

PUBLIC COMMENTS

TJJD did not receive any public comments on the proposed rulemaking action.

SUBCHAPTER B. TREATMENT
DIVISION 2. PROGRAMMING FOR YOUTH WITH SPECIALIZED TREATMENT NEEDS

37 TAC §380.8767

STATUTORY AUTHORITY

The amended section is adopted under §242.003, Human Resources Code, which requires the Board to adopt rules appropriate to properly accomplish TJJD's functions and to adopt rules for governing TJJD schools, facilities, and programs.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Jana L. Jones
General Counsel
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Effective date: July 15, 2024
Proposal publication date: March 8, 2024
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SUBCHAPTER E. BEHAVIOR MANAGEMENT AND YOUTH DISCIPLINE
DIVISION 2. DUE PROCESS HEARINGS

37 TAC §380.9571

STATUTORY AUTHORITY

The amended section is adopted under §242.003, Human Resources Code, which requires the Board to adopt rules appropriate to properly accomplish TJJD's functions and to adopt rules for governing TJJD schools, facilities, and programs.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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SUBCHAPTER C. PROGRAM SERVICES
DIVISION 4. HEALTH CARE SERVICES

37 TAC §380.9188

The Texas Juvenile Justice Department (TJJD) adopts amendments to Texas Administrative Code, Chapter 380, Subchapter C, §380.9188 without changes to the proposed text as published in the February 2, 2024, issue of the *Texas Register* (49 TexReg 492). The amended section will not be republished.

SUMMARY OF CHANGES

The amendments to §380.9188, concerning Suicide Alert for High-Restriction Facilities, change the requirement for mental health professionals at high-restriction TJJD facilities to consult with the designated mental health professional (i.e., the local clinical director) when determining whether changes will be made to a youth's observation level or suicide precautions to apply only when: (1) the assessing mental health professional is not licensed to practice independently, and (2) the youth's observation level or precautions would be lowered. The amendments also specify that, when a youth on suicide alert is transferred to another high-restriction TJJD facility, the mental health professional at the receiving facility communicates (rather than consults) with the designated mental health professional or designee regarding the plan for treatment and assessment.

PUBLIC COMMENTS

TJJD received public comments from Disability Rights Texas.

Comment: Regarding the requirement in subsection (f)(1) for a staff member to provide constant observation or a higher observation level, language should be added to clarify that the observation be conducted in person rather than remotely.

Response: The rule containing definitions, §380.9187, defines the requirements for providing supervision on each of the different observation levels. TJJD believes these definitions sufficiently address the possibility of remote observation as the assigned staff must be within a pre-defined physical distance during waking hours and document in-room status checks where no cameras are present.

Comment: Regarding the requirement in subsection (f)(1) for a staff member to begin a log to document status checks of the youth, language should be added providing the frequency of the documentation of status checks.

Response: The rule containing definitions, §380.9187, defines the frequency of documenting status checks. The time interval for observation levels that would be possible in this context would not exceed five minutes.

Comment: Regarding the requirement in subsection (g)(2) to notify a youth's parent or guardian of the youth's placement on suicide alert, we recommend that the notification occur no later than 24 hours after the youth is placed on suicide alert.

Response: TJJD agrees that this information should be provided timely to the family or guardian. TJJD's internal procedures require that this notification be made within one workday.

Comment: Regarding subsection (h)(1), about searching a youth's room or personal area. To avoid complaints where a search has occurred without the individual present and then questions arising about certain belongings, we recommend that the youth be present when the search occurs, the items removed be documented and the youth asked to sign the document. Any refusal to sign should be documented.

Response: TJJD agrees with the sentiment that youth should be present when personal belongings are search, to the extent possible. All items removed from a youth's room would be required to be documented by the staff member removing it, creating a chain of custody, limited the potential for hearsay about personal belongings. There are certain operational limitations that TJJD would need to analyze carefully, such as potential implications for investigations, avoiding delays in searching rooms that make create unsafe environments, or youth being unable to be physically present due to safety. TJJD will analyze internal procedures to determine the appropriateness of such provisions.

STATUTORY AUTHORITY

The amended section is adopted under §242.003, Human Resources Code, which requires the TJJD Board to adopt rules appropriate to properly accomplish TJJD's functions and to adopt rules for governing TJJD schools, facilities, and programs.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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SUBCHAPTER E. BEHAVIOR MANAGEMENT AND YOUTH DISCIPLINE
DIVISION 1. BEHAVIOR MANAGEMENT

37 TAC §§380.9503, 380.9504, 380.9510

The Texas Juvenile Justice Department (TJJD) adopts amendments to 37 TAC §380.9503 (concerning rules and consequences for residential facilities) and §380.9504 (concerning rules and consequences for youth on parole) with changes to the proposed text as published in the March 8, 2024, issue of the *Texas Register* (49 TexReg 1434). The amended rules will be republished.

The Texas Juvenile Justice Department (TJJD) adopts amendments to 37 TAC §380.9510 (concerning intervention program) without changes to the proposed text as published in the March

8, 2024, issue of the *Texas Register* (49 TexReg 1434). The amended rule will not be republished.

BACKGROUND AND JUSTIFICATION

The new amendments to §380.9503 and §380.9504 are the same: deleting the phrase *for the first ten days* from the requirement that a youth must remain at the approved placement while on electronic monitoring.

SUMMARY OF CHANGES

In addition to the new amendment listed above, the amendments to §380.9503 include adding that a Level II hearing will be requested for any youth not on parole status who allegedly commits a first- or second-degree felony unless TJJD determines, given all circumstances, a hearing would not be appropriate. Such a decision must be documented. TJJD will review the youth for placement in the most restrictive setting appropriate, including the intervention program in Section 380.9510, if the allegation is proved.

The amendments to §380.9503 also include: 1) adding a new rule violation entitled *Failure to Comply with Electronic Monitoring Program Conditions*, which applies only to youth in medium-restriction facilities and includes failing to comply with any of the specific electronic monitoring conditions listed in the rule; and 2) changing the definition of the rule violation entitled *Participating in a Major Disruption of Facility Operations* to no longer require that a youth must participate with two or more persons.

In addition to the new amendment listed above, the amendments to §380.9504 include adding that a parole revocation hearing will be requested for any youth who allegedly commits a first- or second-degree felony while on parole, although it may not be held if a deferral is requested by local prosecutors or TJJD determines that, given all circumstances, a hearing would not be appropriate. The amendments also added that TJJD shall review the youth for placement in the most restrictive setting appropriate if the youth's parole is revoked.

The amendments to §380.9504 also include adding the following to the list of parole rule violations: 1) *Failure to Comply with Electronic Monitoring Program Conditions,* which includes failing to comply with any of the specific conditions listed in the rule; and 2) *Participating in a Major Disruption of Facility Operations*, which is conduct that poses a threat to persons or property and substantially disrupts the performance of facility operations or programs (only for youth on parole status in medium-restriction facilities).

The amendments to §380.9510 include: 1) adding first- or second-degree felony to the list of violations that require a youth in a high-restriction facility to be reviewed for possible placement in the intervention program; and 2) adding that youth whose parole has been revoked and youth who are transferred from a medium-restriction facility to a high-restriction facility may be reviewed for placement in the intervention program. This review is mandatory if the return to a high-restriction facility is due to a first- or second-degree felony.

The amendments to §380.9510 also include several changes relating to the primary level of the intervention program: 1) adding that youth in this level of the program move around campus for non-program-related activities in a manner generally comparable to the general campus population; 2) removing a provision stating that youth in this level of the program continue to sleep at their assigned dorm but engage in other activities at the site of the program; and 3) removing a reference that states which staff divisions are involved in reviewing youth for possible placement in this level of the intervention program.

PUBLIC COMMENTS

TJJD received public comments from Disability Rights Texas.

Comment: Language should be added to specify under what circumstances a Level II hearing is deemed inappropriate.

Response: TJJD appreciates the sentiment of this comment, but believes creating an exhaustive list of circumstances is not possible and would have negative unintended consequences. Namely, enumerating inappropriate circumstances may inadvertently limit instances where a hearing is deemed inappropriate to only those listed in the rule. TJJD currently uses training, legal consultation, and internal procedures to guide staff further in making these determinations.

Comment: Regarding actions that are prohibited as disciplinary consequences, language should be added to prohibit inappropriate or excessive use of manual, mechanical or chemical restraints.

Response: Using force in any manner as a disciplinary consequence is already prohibited. Doing so would constitute corporal or unusual punishment or subjecting a youth to humiliation, harassment, or physical or mental abuse, which are expressly prohibited by the rule text. Additionally, TJJD's rule that addresses use of force, 37 TAC §380.9723, contains an exhaustive list of the allowable uses of force. Disciplinary consequences are not listed and therefore are prohibited as a means of imposing discipline.

Comment: Regarding the requirement in subsection (e)(5) for staff to tell the youth which rule violation was allegedly committed, what information staff has that establishes the youth committed it, and disciplinary consequences being considered - this information should be conveyed verbally and in writing and the same information should be conveyed to the legally authorized representative or family.

Response: This section is not describing a Level II hearing or another formal legal process but rather a procedure detailing an informal process designed to ensure due process requirements are met in imposing a disciplinary consequence that do not substantially alter a youth's living conditions. Formal notice is provided for due process hearings, which consider dispositions that may substantially alter a youth's living conditions.

STATUTORY AUTHORITY

The amended sections are adopted under §242.003, Human Resources Code, which requires the board to adopt rules appropriate to properly accomplish TJJD's functions and to adopt rules for governing TJJD schools, facilities, and programs.

The amended sections are also adopted under §243.001, Human Resources Code (as amended by SB 1727, 88th Legislature, Regular Session), which requires the board to adopt rules establishing procedures to determine the appropriate placement for youth pending prosecution for an alleged first- or second-degree felony committed while in TJJD custody.

TJJD certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

§380.9503. Rules and Consequences for Residential Facilities.

(a) Purpose. This rule establishes the actions that constitute violations of the rules of conduct for residential facilities. Violations of the rules may result in disciplinary consequences that are proportional

to the severity and extent of the violation. Appropriate due process, including a consideration of extenuating circumstances, shall be followed before imposing consequences.

(b) Applicability. This rule applies to youth assigned to residential facilities operated by the Texas Juvenile Justice Department (TJJD).

(c) Definitions. The following terms, as used in this rule, have the following meanings unless the context clearly indicates otherwise.

(1) Attempt to Commit--a youth, with specific intent to commit a rule violation, engages in conduct that amounts to more than mere planning that tends but fails to effect the commission of the intended rule violation.

(2) Bodily Injury--physical pain, illness, or impairment of physical condition. Fleeting pain or minor discomfort does not constitute bodily injury.

(3) Direct Someone to Commit--occurs when:

(A) a youth communicates with another youth;

(B) the communication is intended to cause the other youth to commit a rule violation; and

(C) the other youth commits or attempts to commit a rule violation.

(4) Possession--actual care, custody, control, or management. It does not require the item to be on or about the youth's person.

(d) General Provisions.

(1) Formal incident reports are completed for alleged rule violations as required by internal operational procedures.

(2) A formal incident report is not proof that a youth committed an alleged rule violation. Only rule violations that are proven through a Level I or Level II due process hearing in accordance with §380.9551 or §380.9555 of this chapter, respectively, are considered proven and are considered a part of a youth's disciplinary record. A formal incident report is not appealable or grievable; only disciplinary consequences may be appealed or grieved, as provided below.

(3) When a youth is found to be in possession of prohibited money as defined in this rule, a Level II hearing is required to seize the money. Seized money shall be placed in the student benefit fund in accordance with §380.9555 of this chapter.

(4) This paragraph applies only to youth not on parole status who are alleged to have engaged in conduct classified as a first- or second-degree felony while in a residential facility operated by or under contract with TJJD. A Level II hearing shall be requested on these youth unless it is determined that, given all circumstances, a Level II hearing is not appropriate. Such decision shall be documented. If a requested Level II hearing is held and the allegation is proved, the youth shall be reviewed for the most restrictive setting appropriate, including the intervention program described by §380.9510 of this chapter.

(e) Disciplinary Consequences.

(1) Disciplinary consequences shall be established in writing in TJJD's procedural manuals. Appropriate disciplinary consequences may be imposed only if the consequences are established in writing in TJJD's procedural manuals prior to the occurrence of the conduct for which the consequence is issued.

(2) Disciplinary consequences may include, but are not limited to, the following:

(A) suspension of privileges;

(B) restriction from planned activities;

(C) trust-fund restriction; and

(D) disciplinary transfer to a high-restriction facility (available only for youth on institutional status in a medium-restriction facility).

(3) The following are prohibited as disciplinary consequences:

(A) corporal or unusual punishment;

(B) subjecting a youth to humiliation, harassment, or physical or mental abuse;

(C) subjecting a youth to personal injury;

(D) subjecting a youth to property damage or disease;

(E) punitive interference with the daily functions of living, such as eating or sleeping;

(F) purposeless or degrading work, including group exercise as a consequence;

(G) placement in the intervention program under §380.9510 of this chapter;

(H) disciplinary isolation; and

(I) extending a youth's stay in a TJJD facility.

(4) A Level II hearing is required before imposing a disciplinary consequence that materially alters a youth's living conditions, including disciplinary transfer from a medium-restriction facility to a high-restriction facility. TJJD's procedural manuals will specify which disciplinary consequences require a Level II hearing. Disciplinary consequences requiring a Level II hearing are considered major consequences.

(5) If a Level II hearing is not required, the following must occur before imposing disciplinary consequences for a youth in a high-restriction facility:

(A) a written description of the incident must be prepared;

(B) staff must tell the youth which rule violation the youth allegedly committed and describe the information staff has that establishes the youth committed it;

(C) staff must tell the youth what disciplinary consequence(s) staff is considering imposing; and

(D) the youth must be given the opportunity to address the allegation, including providing any extenuating circumstances and information on the appropriateness of the intended consequence(s).

(6) If a Level II hearing is not required, a Level III hearing must occur before imposing disciplinary consequences for a youth in a medium-restriction facility, in accordance with §380.9557 of this chapter.

(f) Review and Appeal of Consequences.

(1) All disciplinary consequences shall be reviewed for policy compliance by the facility administrator or designee within three calendar days after issuance. The reviewing staff shall not be the staff who issued the discipline.

(2) The reviewing staff may remove or reduce any disciplinary consequence determined to be excessive or not validly related to the nature or seriousness of the conduct.

(3) Youth may appeal disciplinary consequences issued through a Level II hearing by filing an appeal in accordance with §380.9555 of this chapter.

(4) Youth in medium-restriction facilities may appeal disciplinary consequences issued through a Level III hearing by filing an appeal in accordance with §380.9557 of this chapter.

(5) Youth in high-restriction facilities may grieve disciplinary consequences issued without a Level II hearing by filing a grievance in accordance with §380.9331 of this chapter.

(g) Major Rule Violations. It is a violation to knowingly commit, attempt to commit, direct someone to commit, or aid someone else in committing any of the following:

(1) Assault of Another Youth (No Injury)--intentionally, knowingly, or recklessly engaging in conduct with the intent to cause bodily injury to another youth but the conduct does not result in bodily injury.

(2) Assault of Staff (No Injury)--intentionally, knowingly, or recklessly engaging in conduct with the intent to cause bodily injury to a staff member, contract employee, or volunteer with the intent to cause injury but the conduct does not result in bodily injury.

(3) Assault Causing Bodily Injury to Another Youth--intentionally, knowingly, or recklessly engaging in conduct that causes another youth to suffer bodily injury.

(4) Assault Causing Bodily Injury to Staff--intentionally, knowingly, or recklessly engaging in conduct that causes a staff member, contract employee, or volunteer to suffer bodily injury.

(5) Attempted Escape--committing an act with specific intent to escape that amounts to more than mere planning that tends but fails to effect an escape.

(6) Chunking Bodily Fluids--causing a person to contact the blood, seminal fluid, vaginal fluid, saliva, urine, and/or feces of another with the intent to harass, alarm, or annoy another person.

(7) Distribution of Prohibited Substances--distributing or selling any prohibited substances or items.

(8) Escape--leaving a high-restriction residential placement without permission or failing to return from an authorized leave.

(9) Extortion or Blackmail--demanding or receiving favors, money, actions, or anything of value from another in return for protection against others, to avoid bodily harm, or in exchange for not reporting a violation.

(10) Failure to Comply with Electronic Monitoring Program Conditions (for Youth in Medium-Restriction Residential Placement)--failing to comply with one of the following conditions required by the youth's electronic monitoring program conditions:

(A) remain at the address listed at all designated times;

(B) follow curfew restriction as stated in the youth's conditions of placement or conditions of parole;

(C) remain at the approved placement while on electronic monitoring, going only to school, approved activities, religious functions, and medical/psychological appointments and then return to the approved placement, in accordance with the schedule identified in the conditions of placement or conditions of parole;

(D) wear the electronic monitoring device 24 hours a day;

(E) allow a TJJD staff member to enter the youth's residence to install, maintain, and inspect the device if required;

(F) notify the electronic monitoring officer as soon as possible within 24 hours if the youth experiences any problems with the electronic monitoring system; and

(G) charge the device daily for a minimum of one hour continuously in the morning and one hour continuously in the evening.

(11) Fighting Not Resulting in Bodily Injury--engaging in a mutually instigated physical altercation with another person or persons that does not result in bodily injury.

(12) Fighting That Results in Bodily Injury--engaging in a mutually instigated physical altercation with another person or persons that results in bodily injury.

(13) Fleeing Apprehension--running from or refusing to come to staff when called and such act results in disruption of facility operations.

(14) Misuse of Medication--using medication provided to the youth by authorized personnel in a manner inconsistent with specific instructions for use, including removing the medication from the dispensing area.

(15) Participating in a Major Disruption of Facility Operations--intentionally engaging in conduct that poses a threat to persons or property and substantially disrupts the performance of facility operations or programs.

(16) Possessing, Selling, or Attempting to Purchase Ammunition--possessing, selling, or attempting to purchase ammunition.

(17) Possession of Prohibited Items--possessing the following prohibited items:

(A) cellular telephone;

(B) matches or lighters;

(C) jewelry, unless allowed by facility rules;

(D) money in excess of the amount or in a form not permitted by facility rules (see §380.9555 of this chapter for procedures concerning seizure of such money);

(E) pornography;

(F) items which have been fashioned to produce tattoos or body piercing;

(G) cleaning products when the youth is not using them for a legitimate purpose; or

(H) other items that are being used inappropriately in a way that poses a danger to persons or property or threatens facility security.

(18) Possessing, Selling, or Attempting to Purchase a Weapon--possessing, selling, or attempting to purchase a weapon or an item that has been made or adapted for use as a weapon.

(19) Possession or Use of Prohibited Substances and Paraphernalia--possessing or using any unauthorized substance, including controlled substances or intoxicants, medications not prescribed for the youth by authorized medical or dental staff, alcohol, tobacco products, or related paraphernalia such as that used to deliver or make any prohibited substance.

(20) Refusing a Drug Screen--refusing to take a drug screen when requested to do so by staff or tampering with or contaminating the urine sample provided for a drug screen. (Note: If the youth

says he/she cannot provide a sample, the youth shall be given water to drink and two hours to provide the sample.)

(21) Refusing a Search--refusing to submit to an authorized search of person or area.

(22) Repeated Non-Compliance with a Written, Reasonable Request of Staff (for Youth in Medium-Restriction Residential Placement)--failing on two or more occasions to comply with a specific written, reasonable request of staff. If the request requires the youth to do something daily or weekly, the two failures to comply must be within a 30-day period. If the request requires the youth to do something monthly, the two failures to comply must be within a 60-day period.

(23) Sexual Misconduct--intentionally or knowingly engaging in any of the following:

(A) causing contact, including penetration (however slight), between the penis and the vagina or anus; between the mouth and penis, vagina or anus; or penetration (however slight) of the anal or genital opening of another person by hand, finger, or other object;

(B) touching or fondling, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another person;

(C) kissing for sexual stimulation;

(D) exposing the anus, buttocks, breasts, or genitals to another or exposing oneself knowing the act is likely to be observed by another person; or

(E) masturbating in an open and obvious way, whether or not the genitals are exposed.

(24) Stealing--intentionally taking property with an estimated value of $100 or more from another without permission.

(25) Tampering with Monitoring Equipment--a youth intentionally or knowingly tampers with monitoring equipment assigned to any youth.

(26) Tampering with Safety Equipment--intentionally tampering with, damaging, or blocking any device used for safety or security of the facility. This includes, but is not limited to, any locking device or item that provides security access or clearance, any fire alarm or fire suppression system or device, video camera, radio, telephone (when the tampering prevents it from being used as necessary for safety and/or security), handcuffs, or shackles.

(27) Tattooing/Body Piercing--engaging in tattooing or body piercing of self or others. Tattooing is defined as making a mark on the body by inserting pigment into the skin.

(28) Threatening Another with a Weapon--intentionally and knowingly threatening another with a weapon. A weapon is something that is capable of inflicting bodily injury in the manner in which it is being used.

(29) Unauthorized Absence--leaving a medium-restriction residential placement without permission or failing to return from an authorized leave.

(30) Vandalism--intentionally causing $100 or more in damage to state property or personal property of another.

(31) Violation of Any Law--violating a Texas or federal law that is not already defined as a major or minor rule violation.

(h) Minor Rule Violations. It is a violation to knowingly commit, attempt to commit, direct someone to commit, or aid someone else in committing any of the following:

(1) Breaching Group Confidentiality--disclosing or discussing information provided in a group session to another person not present in that group session.

(2) Disruption of Program--engaging in behavior that requires intervention to the extent that the current program of the youth and/or others is disrupted. This includes, but is not limited to:

(A) disrupting a scheduled activity;

(B) being loud or disruptive without staff permission;

(C) using profanity or engaging in disrespectful behavior toward staff or peers; or

(D) refusing to participate in a scheduled activity or abide by program rules.

(3) Failure to Abide by Dress Code--failing to follow the rules of dress and appearance as provided by facility rules.

(4) Failure to do Proper Housekeeping--failing to complete the daily chores of cleaning the living environment to the expected standard.

(5) Gang Activity--participating in an activity or behavior that promotes the interests of a gang or possessing or exhibiting anything related to or signifying a gang, such as, but not limited to, gang-related literature, symbols, or signs.

(6) Gambling or Possession of Gambling Paraphernalia--engaging in a bet or wager with another person or possessing paraphernalia that may be used for gambling.

(7) Horseplay--engaging in wrestling, roughhousing, or playful interaction with another person or persons that does not rise to the level of an assault. Horseplay does not result in any party getting upset or causing injury to another.

(8) Improper Use of Telephone/Mail/Computer--using the mail, a computer, or the telephone system for communication that is prohibited by facility rules, at a time prohibited by facility rules, or to inappropriately access information.

(9) Lending/Borrowing/Trading Items--lending or giving to another youth, borrowing from another youth, or trading with another youth possessions, including food items, without permission from staff.

(10) Lying/Falsifying Documentation/Cheating--lying or withholding information from staff, falsifying a document, and/or cheating on an assignment or test.

(11) Possession of an Unauthorized Item--possessing an item the youth is not authorized to have (possession of which is not a major rule violation), including items not listed on the youth's personal property inventory. This does not include personal letters or photographs.

(12) Refusal to Follow Staff Verbal Instructions--deliberately failing to comply with a specific reasonable verbal instruction made by a staff member.

(13) Stealing--intentionally taking property with an estimated value under $100 from another without permission.

(14) Threatening Others--making verbal or physical threats toward another person or persons.

(15) Unauthorized Physical Contact with Another Youth (No Injury)--intentionally making unauthorized physical contact with another youth without the intent to cause injury and that does not cause injury, such as, but not limited to, pushing, poking, or grabbing.

(16) Unauthorized Physical Contact with Staff (No Injury)--intentionally making unauthorized physical contact with a staff member, contract employee, or volunteer without the intent to cause injury and that does not cause injury, such as, but not limited to, pushing, poking, and grabbing.

(17) Undesignated Area--being in any area without the appropriate permission to be in that area.

(18) Vandalism--intentionally causing less than $100 in damage to state or personal property.

§380.9504. Rules and Consequences for Youth on Parole.

(a) Purpose. This rule establishes the actions that constitute violations of the rules of conduct youth are expected to follow while under parole supervision. Violations of the rules may result in disciplinary consequences, including revocation of parole, that are proportional to the severity and extent of the violation. Appropriate due process must be followed before imposing consequences.

(b) Applicability.

(1) This rule applies to youth on parole status who are assigned to a home placement.

(2) For parole revocation purposes, this rule also applies to youth on parole status who are assigned to a residential placement as a home substitute. However, this rule does not apply to the daily rules of conduct for these youth. For the daily rules of conduct, see §380.9503 of this chapter.

(c) General Provisions.

(1) Conditions of parole are provided to the youth before release on parole.

(2) Conditions of parole, including the rules of conduct, are reviewed with youth when they initially meet with their parole officers and at other times as necessary.

(3) Repeated violations of any rule of conduct may result in more serious disciplinary consequences.

(d) Definitions. Possession--actual care, custody, control, or management. It does not require the item to be on or about the youth's person.

(e) Parole Rule Violations. It is a violation to knowingly commit, attempt to commit, or aid someone else in committing any of the following:

(1) Abscond--leaving a home placement or failing to return from an authorized leave when:

(A) the youth's parole officer did not give permission; and

(B) the youth's whereabouts are unknown to the youth's parole officer.

(2) Failure to Comply with Electronic Monitoring Program Conditions--failing to comply with one of the following conditions required by the youth's electronic monitoring program conditions:

(A) remain at the address listed at all designated times;

(B) follow curfew restriction as stated in the youth's conditions of placement or conditions of parole;

(C) remain at the approved placement while on electronic monitoring, going only to school, approved activities, religious functions, and medical/psychological appointments and then return to the approved placement, in accordance with the schedule identified in the conditions of placement or conditions of parole;

(D) wear the electronic monitoring device 24 hours a day;

(E) allow a TJJD staff member to enter the youth's residence to install, maintain, and inspect the device if required;

(F) notify the electronic monitoring officer as soon as possible within 24 hours if the youth experiences any problems with the electronic monitoring system; and

(G) charge the device daily for a minimum of one hour continuously in the morning and one hour continuously in the evening.

(3) Failure to Comply with Sex Offender Conditions of Parole--intentionally or knowingly failing to comply with one of the following conditions present in the youth's sex offender conditions of parole addendum:

(A) do not have unsupervised contact with children under the age specified by the conditions of parole;

(B) do not babysit or participate in any activity where the youth is responsible for supervising or disciplining children under the age specified by the conditions of parole; or

(C) do not initiate physical contact or touching of any kind with a child, victim, or potential victim.

(4) Failure to Report an Arrest or Citation--failing to report an arrest or receipt of a citation to the youth's parole officer within 24 hours of arrest or citation.

(5) Participating in a Major Disruption of Facility Operations--intentionally engaging in conduct that poses a threat to persons or property and substantially disrupts the performance of facility operations or programs. (This parole violation applies only to youth assigned to a residential placement as a substitute for home placement.)

(6) Possessing, Selling, or Attempting to Purchase Ammunition--possessing, selling, or attempting to purchase ammunition.

(7) Possessing, Selling, or Attempting to Purchase a Weapon--possessing, selling, or attempting to purchase a weapon or an item that has been made or adapted for use as a weapon.

(8) Refusing a Drug Screen--refusing to take a drug screen when requested to do so by staff or tampering with or contaminating the urine sample provided for a drug screen.

(9) Repeated Non-Compliance with a Written, Reasonable Request of Staff--failing on two or more occasions to comply with a specific condition of release under supervision and/or a specific written, reasonable request of staff. If the request requires the youth to do something daily or weekly, the two failures to comply must be within a 30-day period. If the request requires the youth to do something monthly, the two failures to comply must be within a 60-day period.

(10) Photos, Videos, or Social Media Posts with Weapon, Ammunition, or Unauthorized Substance--appearing in photos, videos, or other images, whether or not posted to social media, with any weapon, ammunition, or unauthorized substance or related paraphernalia, including any object that reasonably resembles a weapon, ammunition, or unauthorized substance or related paraphernalia. The term weapon includes, but is not limited to, guns, explosive devices, knives, blades, and clubs. The term related paraphernalia includes, but is not limited to, items used to make or deliver unauthorized substances.

(11) Tampering with Monitoring Equipment--a youth intentionally or knowingly tampers with monitoring equipment assigned to any youth.

(12) Unauthorized Absence--leaving a medium-restriction residential placement without permission or failing to return from an authorized leave.

(13) Possession or Use of Unauthorized Substances--possessing, ingesting, inhaling, or otherwise consuming any unauthorized substance, including controlled substances or intoxicants, medications not prescribed for the youth by authorized medical or dental staff, alcohol or tobacco products, or related paraphernalia such as that used to deliver or make any unauthorized substance.

(14) Violation of Any Law--violating a federal or state law or municipal ordinance.

(f) Possible Consequences.

(1) A parole rule violation may result in a Level I hearing or a Level III hearing conducted in accordance with §380.9551 or §380.9557 of this chapter, respectively.

(A) This subparagraph applies only to youth alleged to have engaged in conduct classified as a first- or second-degree felony while on parole. Except as provided by this subparagraph, a Level I hearing shall be requested on these youth. The hearing may be deferred when requested by local prosecutors, as provided in §380.9551 of this chapter. The designated staff person may determine that, given all circumstances, a Level I hearing is not appropriate. Such decision shall be documented. If a Level I hearing is held and the youth's parole is revoked, the youth shall be reviewed for the most restrictive setting appropriate, including the intervention program described by §380.9510 of this chapter.

(B) Parole officers are encouraged to be creative in determining a consequence appropriate to address and correct the youth's behavior. Staff should use evidence-based interventions that relate to the youth's risk, needs, and responsivity when appropriate. All assigned consequences should be related to the misconduct when possible.

(2) Consequences through a Level III hearing for a youth on parole include, but are not limited to:

(A) Verbal Reprimand--conference with a youth including a verbal reprimand that draws attention to the misbehavior and serves as a warning that continued misbehavior could result in more severe consequences.

(B) Curfew Restriction--an immediate change in existing curfew requirements outlined in the youth's conditions of parole.

(C) Community Service Hours--disciplinary assignment of a specific number of hours the youth is to perform community service in addition to the hours assigned when the youth was placed on parole. In no event may more than 20 community service hours be assigned through a Level III hearing.

(D) Increased Level of Supervision--an assigned increase in the number of primary contacts between the youth and parole officer in order to increase the youth's accountability.

(E) Electronic Tracking--assignment to a system that electronically tracks a youth's movement and location.

(F) Writing Assignment--an assignment designed for the youth to address the misbehavior and identify appropriate behavior in similar situations.

(3) Consequences through a Level I hearing for a youth on parole, including youth assigned to a residential placement as a home substitute, include:

(A) parole revocation and placement in any high- or medium-restriction program operated by or under contract with the Texas Juvenile Justice Department; and

(B) assignment of a length of stay consistent with §380.8525 of this chapter.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on June 25, 2024.

TRD-202402784
Jana L. Jones
General Counsel
Texas Juvenile Justice Department
Effective date: July 15, 2024
Proposal publication date: March 8, 2024
For further information, please call:

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CHAPTER 385. AGENCY MANAGEMENT AND OPERATIONS

SUBCHAPTER B. INTERACTION WITH THE PUBLIC

37 TAC §385.8183

The Texas Juvenile Justice Department (TJJD) adopts amendments to 37 TAC §385.8183 (concerning advocacy, support group, and social services provider access) without changes to the proposed text as published in the May 3, 2024, issue of the *Texas Register* (49 TexReg 2994). The amended rule will not be republished.

SUMMARY OF CHANGES

The amendments to §385.8183 include adding that: 1) TJJD tracks the frequency with which the executive director finalizes appeals described elsewhere in the rule; 2) TJJD compiles frequency data on a quarterly basis; and 3) at the beginning of each quarter, TJJD provides the frequency data from the previous quarter to the TJJD Board and the Sunset Advisory Commission.

PUBLIC COMMENTS

TJJD did not receive any public comments on the proposed rulemaking action.

STATUTORY AUTHORITY

Section 385.9921 is adopted under §242.003, Human Resources Code, which requires the Board to adopt rules appropriate to properly accomplish TJJD's functions and to adopt rules for governing TJJD schools, facilities, and programs.

The amended section is also adopted under §242.102, Human Resources Code (as amended by SB 1727, 88th Legislature, Regular Session), which requires administrative investigative findings of the Office of the Inspector General to undergo a legal sufficiency review before being made public.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Jana L. Jones
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Effective date: July 15, 2024
Proposal publication date: May 3, 2024
For further information, please call: (512) 490-7278

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PART 13. TEXAS COMMISSION ON FIRE PROTECTION

CHAPTER 467. FIRE MARSHAL

The Texas Commission on Fire Protection (the Commission or agency) adopts amendments to 37 Texas Administrative Code Chapter 467 Fire Marshal, §467.1, Basic Fire Marshal Certification, §467.3 Minimum Standards for Basic Fire Marshal Certification, §467.5, Examination Requirement, §467.201, Intermediate Fire Marshal Certification, §467.301, Advanced Fire Marshal Certification, and §467.401.

The amended sections are adopted without changes to the text as published in the May 3, 2024, issue of the *Texas Register* (49 TexReg 2996).

The rule amendments are initiated because of a change in the examination requirements for Basic Fire Marshal as reflected in the amendment to §467.1 and §467.5. The rule amendments to §467.3, §467.201, §467.301, and §467.401 correct typographical errors.

No comments were received from the public regarding the adoption of the amendments.

SUBCHAPTER A. MINIMUM STANDARDS FOR BASIC FIRE MARSHAL CERTIFICATION

37 TAC §§467.1, 467.3, 467.5

The amended sections are adopted under Texas Government Code, §419.008, which authorizes the commission to adopt or amend rules to perform the duties assigned to the commission. The rule is also adopted under Texas Government Code §419.032, which authorizes the commission to adopt rules establishing the requirements for fire protection personnel.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on June 27, 2024.

TRD-202402817
Frank King
General Counsel
Texas Commission on Fire Protection
Effective date: July 17, 2024
Proposal publication date: May 3, 2024
For further information, please call: (512) 936-3824

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SUBCHAPTER B. MINIMUM STANDARD FOR INTERMEDIATE FIRE MARSHAL CERTIFICATION

37 TAC §467.201

The section is adopted under Texas Government Code §419.008, which authorizes the commission to adopt or amend rules to perform the duties assigned to the commission. The rule is also adopted under Texas Government Code §419.032, which authorizes the commission to adopt rules establishing qualifications for fire personnel.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Frank King
General Counsel
Texas Commission on Fire Protection
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For further information, please call: (512) 936-3824

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SUBCHAPTER C. MINIMUM STANDARDS FOR ADVANCED FIRE MARSHAL CERTIFICATION

37 TAC §467.301

The amendment is adopted under Texas Government Code §419.008, which authorizes the commission to adopt or amend rules to perform the duties assigned to the commission. The rule is also adopted under Texas Government Code §419.032, which authorizes the commission to adopt rules establishing qualifications for fire personnel.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Frank King
General Counsel
Texas Commission on Fire Protection
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For further information, please call: (512) 936-3824

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SUBCHAPTER D. MINIMUM STANDARDS FOR MASTER FIRE MARSHAL CERTIFICATION

37 TAC §467.401

The amendment is adopted under Texas Government Code §419.008, which authorizes the commission to adopt or amend

rules to perform the duties assigned to the commission. The rule is also adopted under Texas Government Code §419.032, which authorizes the commission to adopt rules establishing qualifications for fire personnel.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Frank King
General Counsel
Texas Commission on Fire Protection
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For further information, please call: (512) 936-3824

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TITLE 43. TRANSPORTATION

PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 1. MANAGEMENT

SUBCHAPTER A. ORGANIZATION AND RESPONSIBILITIES

43 TAC §1.2

The Texas Department of Transportation (department) adopts the amendments to §1.2 concerning Organization and Responsibilities. The amendments to §1.2 are adopted without changes to the proposed text as published in the April 12, 2024 of the *Texas Register* (49 TexReg 2256) and will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS

House Bill 3444, 88th Legislature, Regular Session, 2023, requires the Texas Transportation Commission (commission), by rule, to prescribe criteria for the classification of each district as metropolitan, urban, or rural and requires that a district with a population of more than one million be classified as metropolitan.

Amendments to §1.2, Texas Department of Transportation, adds subsection (d)(4), District Classification. The subsection defines a population-based classification of department districts. A district with a population of more than one million is classified as metropolitan. A district with a population between one million to 400,000 is classified as urban. A district with a population less than 400,000 is classified as rural. A district's population is determined using the most recent population information provided to the department by the Texas Demographic Center. After population data from each federal decennial census is released, the department will review the classification of the districts and recommend to the commission any changes to classification criteria that the department considers to be necessary. If the commission determines that changes are necessary, it will amend its rules to reflect those changes.

Additionally, as a housekeeping measure, the amendments delete the references to department offices in subsection (c) of the section because the department no longer uses the term "office" for the classification of headquarters operation groups.

COMMENTS

The department received a letter from several legislators and written comments from 53 others most of whom commented as representatives of various governmental entities.

The letter from the legislators was signed by Juan "Chuy" Hinojosa, State Senator, District 20; Judith Zaffirini, State Senator, District 21; Morgan LaMantia, State Senator, District 27; Terry Canales, State Representative, District 40; Ryan Guillen, State Representative, District 31; Oscar Longoria, State Representative, District 35; Sergio Munoz, Jr., State Representative, District 36; Janie Lopez, State Representative, District 37; Erin Gamez, State Representative, District 38; Armando "Mando" Martinez, State Representative, District 39; and R. D. "Bobby" Guerra, State Representative, District 41. They expressed support of the adoption of the rules and provided no suggested changes to the rules, as proposed. The letter urged the commission to increase the resources allocated for the administration and operation of the Pharr District and expressed concern that the Local Employment Impact Statement in the preamble of the proposed rules indicates minimal impact on local economies or employment from the proposed changes. The department thanks the legislators for their comments and insight and appreciates their support for the adoption of the rules. The Local Employment Impact Statement section of the preamble provides the best prediction of whether the rule, itself, (establishing the parameters for the classification of a district as metropolitan, urban, or rural) will have an impact on local economies. That determination is not an indication of, and does not restrict, the commission's future allocation of transportation funding or department resources.

The submissions received from other commenters are similar to one another. All support the adoption of the rules, and none suggested changes to the wording of the rules. The department thanks the commenters for their responses and appreciates their support.

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the commission with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §201.105(h), which requires the commission to prescribe criteria for the classification of each of the department's district as metropolitan, urban, or rural.

The authority for the proposed amendments is provided by H.B. 3444, 88th Regular Session, 2023. The primary author and the primary sponsor of that bill are Rep. Canales and Sen. Hinojosa, respectively.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §201.105.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on June 27, 2024.

TRD-202402821

Becky Blewett
Deputy General Counsel
Texas Department of Transportation
Effective date: July 17, 2024
Proposal publication date: April 12, 2024
For further information, please call: (512) 463-8630

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PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 219. OVERSIZE AND OVERWEIGHT VEHICLES AND LOADS

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Chapter 219, Oversize and Overweight Vehicles and Loads, Subchapter A, General Provisions, §219.1 and §219.2; Subchapter B, General Permits, §§219.11 - 219.15; Subchapter C, Permits for Over Axle and Over Gross Weight Tolerances, §§219.30 - 219.32 and 219.34 - 219.36; Subchapter D, Permits for Oversize and Overweight Oil Well Related Vehicles, §§219.41 - 219.45; Subchapter E, Permits for Oversize and Overweight Unladen Lift Equipment Motor Vehicles, §§219.60 - 219.64; Subchapter F, Compliance, §219.81; and Subchapter G, Records and Inspections, §219.102. The department also adopts new Subchapter A, §§219.5, 219.7 and 219.9. The department adopts the following sections without changes to the proposed text as published in the February 23, 2024, issue of the *Texas Register* (49 TexReg 1002) and will not be republished: §§219.1, 219.2, 219.5, 219.7, 219.9, 219.12 - 219.15, 219.30 - 219.32, 219.34 - 219.36, 219.41 - 219.45, 219.60, 219.61, 219.62, 219.64, 219.81 and 219.102. The department adopts §219.11 and §219.63 with changes to the proposed text as published in the February 23, 2024, issue of the *Texas Register* (49 TexReg 1002), and §219.11 and §219.63 will be republished. The department adopts §219.11 with changes to delay the end date through which the language in §219.11(l)(2) will be in effect regarding restrictions on the movement of certain oversize vehicles and loads on a holiday, and to separate the two sentences in paragraph (2) into subparagraphs (A) and (B). Also, the department adopts §219.63 with changes at adoption to remove the proposed deletion of a space and the proposed addition of a space in the references to Figure 1: 43 TAC §219.62(f). In addition, the department adopts the repeal of §§219.84, 219.86 and 219.123.

The department adopts amendments to document the department's processes and requirements in rule, to update the language to remove unnecessary or obsolete requirements, to delete language that is contained in statute, to delete repetitive language, to clarify the language, to update the language to be consistent with statutory changes; to update the language to be consistent with guidance from the Federal Highway Administration (FHWA), and to begin to organize the general provisions in Subchapter A of Chapter 219. The department also adopts the repeals to delete language that is obsolete or unnecessary; or exceeds the department's rulemaking authority. In addition, the department adopts amendments that renumber, re-letter, or remove cross-references within rule subdivisions due to the deletion of one or more subdivisions within the rules.

REASONED JUSTIFICATION.

Subchapter A. General Provisions

Adopted amendments to §219.1 clarify that Chapter 219 includes permits that authorize travel on certain public roadways in addition to the state highway system. For example, Transportation Code, §623.402 provides for the issuance of an overweight permit that authorizes the permittee to travel on certain county roads, municipal streets, and the state highway system to the extent the Texas Department of Transportation (TxDOT) approves such roads, streets, and state highways under Transportation Code, §623.405. An adopted amendment to §219.1 also clarifies that Chapter 219 includes the policies and procedures for filing surety bonds, including surety bonds that are required before an operator of certain vehicles that exceed certain axle weight limits is allowed to travel on municipal streets, county roads, or the state highway system. An adopted amendment to §219.1 also corrects an error by changing the word "insure" to "ensure."

Adopted amendments to §219.2(b) add a definition for the word "day" to define it as a calendar day for clarity; change the defined word "daylight" to "daytime" and modify the definition by referring to the definition in Transportation Code, §541.401 and deleting the definition, which was derived from §541.401; modify the definition for "hubometer" to replace the word "crane" with the term "unladen lift equipment motor vehicle" because that is the term used in Transportation Code, Chapter 623, Subchapter J; add the word "label" to the defined term "HUD number" so the term is consistent with the term used in §219.14 and Transportation Code, §623.093; amend the definition of "nighttime" to remove the portion of the definition contained in Transportation Code, §541.401 because the definition of "nighttime" refers to the definition in §541.401; amend the definition of "nondivisible load or vehicle" to be consistent with FHWA's interpretation of the term by adding language regarding properly secured components, adding the example from prior §219.61(g) for a crane traveling with properly secured components, and adding an example of a dozer traveling with the blade detached; amend the definition for "nondivisible load or vehicle" by adding a missing period at the end of the language regarding spent nuclear materials and re-lettering the subdivisions accordingly; amend the definition for "permit plate" to reference the definition for "oil well servicing, cleanout, or drilling machinery" as defined in Transportation Code, §502.001(29); add a hyphen between the words "trailer" and "mounted" because these words are compound modifiers for the defined term "trailer-mounted unit"; and add examples to the definition of "unladen lift equipment motor vehicle."

Adopted amendments to §219.2(b) also modify the definition for surety bond because the prior definition for surety bond only referenced the payment to TxDOT for damage to a highway and was therefore in conflict with Transportation Code, §622.134, which also requires payment to a county for damage to a county road and to a municipality for damage to a municipal street caused by the operation of the vehicle, and Transportation Code, §623.163, which also requires payment to a municipality for damage to a municipal street caused by the operation of the vehicle. In addition, an adopted amendment to the definition of surety bond in §219.2 removes language that said the surety bond expires at the end of the state fiscal year because §219.3(b) and §219.11(n) already include this language.

In addition, adopted amendments to §219.2(b) delete the following defined terms because the department adopted amendments that removed the defined terms from where they were used in Chapter 219: board, one-trip registration, temporary ve-

hicle registration, 72-hour temporary vehicle registration, and 144-hour temporary vehicle registration.

Further, adopted amendments to §219.2(b) delete the following terms, which do not appear in Chapter 219: credit card, district, district engineer, machinery plate, motor carrier registration (MCR), traffic control device, trunnion axle group, and variable load suspension axles. Lastly, adopted amendments to §219.2(b) delete the following terms, which are defined in Transportation Code, Chapter 621, 622, or 623: department and director. Section 219.2 says the definitions contained in Transportation Code, Chapter 621, 622, and 623 apply to Chapter 219. The adopted amendments renumber the paragraphs within §219.2(b) to accommodate the adopted deletions and additions to the rule.

Adopted new §219.5 describes the department's current general application requirements to obtain an oversize or overweight permit, including the requirements to provide the required information, submit the required documents, pay the required fees, and submit the application in the form and by the method prescribed by the department on its website. The department's website lists the methods by which an applicant can apply for each type of permit. For example, the department's webpage for 30/60/90-day permits under Transportation Code, Chapter 623, Subchapter D says the applicant can apply via the Texas Permitting and Routing Optimization System (TxPROS) or submit the Time Permit Application (Form MCD-302) by mail to the address listed on the application form. TxPROS is the department's designated permitting system.

Adopted new §219.5 also refers to the application requirements under Chapter 219; Transportation Code, Chapters 621, 622, and 623; and other applicable law. For example, to qualify for certain permits, Transportation Code, §§623.011(b)(1), 623.079, and 623.194 require the vehicle to be registered under Transportation Code, Chapter 502 for the maximum gross weight applicable to the vehicle under Transportation Code, §621.101, not to exceed 80,000 pounds. Adopted new §219.5 also describes the process for an applicant to obtain a customer identification number by setting up an account in TxPROS, as well as the process to authorize the department to obtain a customer identification number for the applicant via TxPROS.

Adopted new §219.7 expressly authorizes certain amendments to permits to be consistent with current practice. Adopted new §219.7(a) provides general amendment guidelines, which are subject to the specific provisions in adopted new §219.7(b). Adopted new §219.7 allows amendments necessary to correct errors made by department staff or the department's permitting system, and as necessary to keep the contact information up to date. Adopted new §219.7 expressly authorizes certain amendments to permits even though other sections in Chapter 219 limit the types of amendments that are allowed to certain types of permits.

Adopted new §219.9 clarifies that the provisions in Chapter 219 do not authorize the operation of a vehicle or vehicle combination on the following roadways in this state to the extent FHWA determines the vehicle or vehicle combination exceeds the applicable weight or size for such roadway under 23 U.S.C. §127, 49 U.S.C. §§31111 through 31114, or federal regulations prescribed under 23 U.S.C. §127 or 49 U.S.C. §§31111 through 31114: the federal-aid primary system, the federal-aid urban system, and the federal-aid secondary system, including the national system of interstate and defense highways. Although these federal laws and regulations do not directly apply to the vehicle operator, Texas complies with such federal laws and regulations through Texas laws and rules regarding maximum vehicle size and weight for the following reasons under the following authority: 1) 23 U.S.C. §127, 23 U.S.C. §141, 49 U.S.C. §31112, and the regulations prescribed under 23 U.S.C. §127, 23 U.S.C. §141, and 49 U.S.C. §31112, which enables Texas to avoid the risk of losing a portion of federal highway funding; and 2) 49 U.S.C. §§31111 through 31114, which enables Texas to avoid a civil action by the U.S. Attorney General for injunctive relief under 49 U.S.C. §31115.

Adopted new §219.9 also requires the department to post a notice on its website and to possibly send notice to permittees through the applicable email addresses on file with the department to the extent the department learns that FHWA generally determines a vehicle or vehicle combination exceeds the applicable weight or size for such roadway under 23 U.S.C. §127, 49 U.S.C. §§31111 through 31114, or federal regulations prescribed under 23 U.S.C. §127 or 49 U.S.C. §§31111 through 31114 in a way that may conflict with a provision in this chapter. This provision is not based on FHWA finding that a specific permittee has exceeded the applicable weight or size; it is based on FHWA's general interpretation of federal law. For example, an adopted amendment to the definition of "nondivisible load or a vehicle" in §219.2 makes the definition consistent with FHWA's current interpretation of this term. If a vehicle already exceeds legal weight without including the weight of the properly secured components, FHWA said the vehicle is considered to be nondivisible even if properly secured components are being transported with the vehicle. To the extent the department learns that FHWA changed its interpretation of the definition of a "nondivisible load or vehicle" under 23 C.F.R. §658.5 in a way that conflicts with the adopted amended definition in §219.2, the department will post a notice on its website regarding FHWA's interpretation and may provide notice to permittees through the applicable email addresses on file with the department.

Subchapter B. General Permits

An adopted amendment to §219.11(b) removes the vehicle registration requirements because the applicable vehicle registration requirements under Transportation Code, §623.079 do not apply to the permits under the following sections in Subchapter B of Chapter 219: §§219.13(e)(5) through (7), 219.14, and 219.15. Also, it is not necessary to repeat the statutory requirements in rule. Amendments throughout Chapter 219 that delete reference to vehicle registration requirements do not impact the applicable vehicle registration requirements under Transportation Code, Chapter 502; the amendments are based on the department's statutory authority under Transportation Code, Chapters 621, 622 and 623. An adopted amendment to §219.11(b) also removes the word "commercial" from the term "commercial motor carrier" to be consistent with the terminology in Transportation Code, Chapter 643 and Chapter 218 of this title (relating to Motor Carriers). In addition, adopted amendments to §219.11(b) restructure the subsection due to adopted amendments and deletions within the subsection.

An adopted amendment to §219.11(d)(1), (d)(1)(D), and (d)(1)(E) changes the term "non-TxDOT engineer" to "non-TxDOT licensed professional engineer" to be consistent with existing terminology in §219.11(d), which refers to a "TxDOT approved licensed professional engineer."

An adopted amendment to §219.11(d)(1)(F) and (d)(3)(H) restructures the sentences to clarify that the maximum permit weight on the axle groups is reduced by 2.5 percent for each foot less than 12 feet. Adopted amendments to §219.11(d)(2)

and (3) add hyphens to the compound modifiers regarding the axle groups and make the terms consistent with the terms in the text in §219.2. An adopted amendment to §219.11(e)(2)(A)(i) changes the word "weak" to "reduced capacity" to describe certain bridges more accurately.

An adopted amendment to §219.11(f) deletes paragraph (1) because the language regarding the payment of fees was added to adopted new §219.5 in Subchapter A, which applies to all permit applications under Chapter 219. An adopted amendment to §219.11(f) also removes the paragraph number and catch line for paragraph (2) because there would only be one paragraph in subsection (f) due to the adopted deletion of paragraph (1). An adopted amendment to the following sections removes the cross-reference to §219.11(f) regarding the payment of fees due to the adopted deletion of this language from §219.11(f), and renumber or re-letter accordingly as necessary: §§219.13, 219.14, 219.15, 219.30, 219.31, 219.32, 219.34, 219.35, 219.36, 219.41, 219.45 and 219.61.

An adopted amendment to §219.11(k)(7) deletes subparagraph (E) because it conflicts with Transportation Code, §547.382. Adopted amendments to §219.11(l)(1) change the word "daylight" to "daytime" and change the term "daylight hours" to "the daytime" because an adopted amendment to §219.2 changes the word "daylight" to "daytime." For this reason, the department also adopted similar amendments to the following sections: §§219.12, 219.13, 219.15, 219.41 and 219.61. An adopted amendment to renumbered and re-lettered §219.13(e)(5)(E) also deletes reference to Transportation Code, §541.401 for the definition of "daytime" because an adopted amendment to §219.2 defines "daytime" by referencing the definition in Transportation Code, §541.401. Adopted amendments to §219.11(l)(1) change the word "night" to "nighttime" to provide clarity because "nighttime" is defined in §219.2. For this reason, the department also adopted amendments to the following sections to change the word "night" to "nighttime": §§219.13, 219.34. 219.35, 219.36 and 219.44.

The department adopts §219.11 with changes at adoption to make the language in §219.11(l)(2) effective through January 10, 2025, regarding restrictions on the movement of certain oversize vehicles and loads on a holiday and to separate the two sentences in paragraph (2) into subparagraphs (A) and (B). The delay will give the Texas Transportation Commission additional time in case it wants to adopt a rule regarding the maximum size limits for a permit issued under Transportation Code, Chapter 623, Subchapter D for holiday movement. The Texas Transportation Commission has rulemaking authority under Transportation Code, §621.006 to impose restrictions on the weight and size of vehicles to be operated on state highways on certain holidays. In addition, TxDOT is responsible for providing the department with routing information necessary to complete a permit under Transportation Code, §623.003.

An adopted amendment to §219.11(l)(2) clarifies that the department may apply restrictions imposed by TxDOT. An adopted amendment to §219.11(l)(3) clarifies that the curfew movement restrictions of a city or county do not apply unless the department publishes the curfew movement restrictions. The department only publishes the curfew movement restrictions if TxDOT approves the restrictions. Currently, the department publishes the curfew movement restrictions on the department's website. An adopted amendment to §219.11(l)(3) also deletes language regarding the curfew restrictions listed on the permit to make the language consistent throughout Chapter 219 regarding published curfew restrictions.

An adopted amendment to §219.11(m)(1) deletes subparagraph (B) because the department does not have statutory authority for the language in subparagraph (B). Also, an adopted amendment to §219.11(m)(1) deletes a reference in subparagraph (A) to subparagraph (B) and re-letters subparagraph (C) due to the deletion of subparagraph (B). In addition, an adopted amendment to re-lettered §219.11(m)(1)(B) clarifies that the restrictions in §219.11(m)(1)(A) and the definition of a "nondivisible load or vehicle" in §219.2 apply to a permit to haul a dozer and its detached blade. Further, an adopted amendment to re-lettered §219.11(m)(1)(B) replaces the word "non-dismantable" with "nondivisible" because "nondivisible load" is a defined term in §219.2, but "non-dismantable" is not defined in Chapter 219.

An adopted amendment to §219.12(b)(3)(C) clarifies that TxDOT, rather than the department, incurs a cost for analyses performed prior to issuing a superheavy permit under §219.12. An adopted amendment to §219.12(b)(6) deletes reference to an intermodal container because Transportation Code, §623.070 says that Subchapter D of Transportation Code, Chapter 623 does not apply to the transportation of an intermodal shipping container.

Adopted amendments to §219.12(b)(7) through (b)(9) combine the paragraphs into revised §219.12(b)(7) because the text covers a specific type of single-trip permit called a superheavy permit. The adopted amendments to §219.12(b)(7) include the requirements in prior §219.12(b)(7) through (b)(9) for the department to provide the applicant with a tentative route based on the physical size of the overdimension load excluding weight, as well as the requirement for the applicant to investigate the tentative route and acknowledge in writing to the department that the route is capable of accommodating the overdimension load. The adopted amendments to §219.12(b)(7) also describe the current process, including the requirement for the department to consult with TxDOT and the applicant as necessary to attempt to determine a tentative route that the applicant can acknowledge is capable of accommodating the overdimension load; the department's obligation to provide the tentative route to the applicant's TxDOT-certified, licensed professional engineering firm once the applicant acknowledges to the department that the tentative route is capable of accommodating the overdimension load; and the requirement under Chapter 28, Subchapter G of this title (relating to Oversize and Overweight Vehicles and Loads) for the applicant's TxDOT-certified, licensed professional engineering firm to provide TxDOT with a report that TxDOT uses to approve the department's tentative route for the movement of a superheavy load under Transportation Code, §623.071 as required by Transportation Code, §623.003. TxDOT relies on outside engineering firms to provide the initial review and analysis for the superheavy permit application prior to providing the department with approval for the tentative route, which the department provides to the applicant for superheavy loads.

The applicant for a superheavy permit must provide the TxDOT-certified, licensed professional engineering firm with the information and documents the engineering firm needs to provide TxDOT with a written report under §28.86 of this title (relating to Bridge Report). The adopted amendments to §219.12(b)(7) delete text found in prior §219.12(b)(7)(A) through (B) because the information and documents that the TxDOT-certified, licensed professional engineering firm needs to create a written report could vary, depending on the load

and the processes of each firm. Before TxDOT will provide the department with approval for the department's tentative route for the superheavy load, TxDOT must receive from the applicant's TxDOT-certified, licensed professional engineering firm a written report that includes a detailed structural analysis of the bridges on the proposed route demonstrating that the bridges and culverts on the route are capable of sustaining the load. The department will not issue a superheavy permit unless TxDOT provides the department with approval for the tentative route proposed by the department and acknowledged by the applicant as capable of accommodating the overdimension load.

Adopted amendments to §219.12(b)(7) also clarify that the reference to an overdimension load that is between 200,001 and 254,300 pounds is a reference to gross weight, which is defined in §219.2. In addition, adopted amendments to §219.12(b)(7) delete text found in prior §219.12(b)(7)(C) through (D) because the department no longer needs the referenced form and because the vehicle supervision fee is already addressed in §219.12(b)(3). Further, adopted amendments to §219.12(b)(7) modify the prior text in §219.12(b)(7)(E) to require the applicant to provide the department with the TxDOT-certified licensed, professional engineering firm's email address, instead of the firm's phone number and fax number.

Adopted amendments to §219.12(d) delete references to storage tanks to be consistent with the department's current practice. An adopted amendment to §219.12(d) also deletes prior paragraph (1) because there are no statutory limits on the size of a house under a permit to move a house. In addition, adopted amendments to §219.12(d) add hyphens between the words "two" and "axle" because these words are compound modifiers for the word "group." Further, adopted amendments to §219.12(d) and (e) delete the requirement for a permit applicant to provide a loading diagram to the department because the applicant must enter weight information into the department's designated permitting system, rather than providing the loading diagram. An adopted amendment to §219.12(d) requires the applicant to provide the department with the requested information regarding weights. Due to adopted deletions of subdivisions within §219.12(d), the remaining subdivisions are renumbered accordingly. With the adopted deletion of §219.12(e), subsection (f) is re-lettered accordingly.

An adopted amendment to §219.13(a) adds a citation to Transportation Code, Chapter 622 because permits for transporting poles required for the maintenance of electric power transmission and distribution lines (power line poles) are authorized under Transportation Code, Chapter 622, Subchapter E. Section 219.13(e)(6) provides the requirements regarding a permit for power line poles.

An adopted amendment to §219.13(b)(1) deletes the permit fee amounts because the fees are listed in Transportation Code, §623.076. An adopted amendment to §219.13(b) deletes prior paragraph (4), which said that time permits will not be issued to a vehicle or vehicle combination that is registered with temporary vehicle registration. Transportation Code, §623.079 says a permit issued under Subchapter D of Chapter 623 of the Transportation Code may only be issued if the vehicle is registered under Transportation Code, Chapter 502 for the maximum gross weight applicable to the vehicle under Transportation Code, §621.101 that is not heavier than 80,000 pounds overall gross weight. The vehicle registration requirements under Transportation Code, §623.079 do not apply to the permits under §219.13(e)(5) through (7). Also, for permits under §219.13 for which vehicle registration is required, temporary vehicle registration under Transportation Code, Chapter 502 qualifies as vehicle registration under Transportation Code, §623.079. With the adopted deletion of §219.13(b)(1) and (4), adopted amendments to §219.13(b) renumber the subsequent paragraphs within §219.13(b) accordingly.

Adopted amendments to §219.13(e)(4) delete references to an intermodal container because Transportation Code, §623.070 says that Subchapter D of Transportation Code, Chapter 623 does not apply to the transportation of an intermodal shipping container. An adopted amendment to §219.13(e)(4) also corrects an error by replacing the word "principle" with "principal."

An adopted amendment to §219.13(e)(5) deletes reference to §219.13(e)(1)(E) because an adopted amendment to §219.13(e)(1) deletes subparagraph (A) and re-letters the subsequent subparagraphs. An adopted amendment to §219.13(e)(5) also deletes reference to §219.13(e)(1)(G) because paragraph (1) does not contain a subparagraph (G). In addition, an adopted amendment to §219.13(e)(5) deletes subparagraph (E) because Transportation Code, Chapter 623 does not require the vehicle to be registered under Transportation Code, Chapter 502. Also, to the extent the permitted vehicle under §219.13(e)(5) falls within the definition of "manufactured housing" under Occupations Code, §1201.003, the vehicle is not subject to vehicle registration under Transportation Code, Chapter 502 according to Transportation Code, §502.142. Further, an adopted amendment to §219.13(e)(5) deletes subparagraph (G) because the escort requirements are contained in statute. Lastly, adopted amendments to §219.13(e)(5) re-letter subsequent subdivisions within the rule text due to deletions.

An adopted amendment to §219.13(e)(6) deletes subparagraph (F) because Transportation Code, Chapter 623 does not require the vehicle to be registered under Transportation Code, Chapter 502. An adopted amendment to §219.13(e)(6) re-letters subsequent subdivisions within the rule text due to the deletion of subparagraph (F).

An adopted amendment to §219.13(e)(7) deletes subparagraph (F) because Transportation Code, Chapter 623 does not require the vehicle to be registered under Transportation Code, Chapter 502.

An adopted amendment to §219.13(e)(8) removes reference to the fee under subsection (b) of §219.13 because an adopted amendment deletes the fee language in subsection (b).

An adopted amendment to §219.14 deletes subsection (d) because the permit fee is listed in Transportation Code, §623.096. An adopted amendment to §219.14 re-letters the subsequent subsections due to the deletion of subsection (d). An adopted amendment to re-lettered §219.14(d) deletes paragraph (5) because the language duplicates language found in Transportation Code, §623.100, and does not list all national holidays. An adopted amendment to re-lettered §219.14(d) renumbers the subsequent paragraphs due to the deletion of paragraph (5). An adopted amendment to re-lettered and renumbered §219.14(d)(6) deletes the clause "listed in this subsection" because an adopted amendment to re-lettered and renumbered §219.14(d) deletes the prior §219.14(e)(5) in which some of the national holidays were listed. An adopted amendment to re-lettered and renumbered §219.14(d)(8) adds the title for §219.11 for clarity. An adopted amendment to re-lettered §219.14(d) deletes prior §219.14(e)(10) because Transportation

Code, §623.099 requires TxDOT, rather than the department, to annually publish a map or list of all bridges or overpasses which, due to height or width, require an escort flag vehicle to stop oncoming traffic while the manufactured home crosses the bridge or overpass. An adopted amendment to re-lettered §219.14(d) renumbers the remaining paragraph due to the deletion of paragraph (10). Adopted amendments to §219.14 delete subsection (f) because the language is contained in statute.

An adopted amendment to §219.15(a)(2) deletes reference to the fee required by subsection (d) and replaces the language with a reference to the fee required by statute because an adopted amendment to subsection (d) removes fee language that duplicates language found in statute. An adopted amendment to §219.15(c) deletes reference to §219.11(b)(2) because the vehicle registration requirements under Transportation Code, §623.079 do not apply to a permit under §219.15 and an adopted amendment to §219.11(b) deletes the vehicle registration requirements. An adopted amendment to §219.15 deletes subsection (f) because the language regarding escort requirements is contained in statute.

Subchapter C. Permits for Over Axle and Over Gross Weight Tolerances

An adopted amendment to §219.30(a) removes an unnecessary sentence, which incorrectly references the requirements in Subchapter C of Chapter 219. An adopted amendment to §219.30(b) replaces the word "subchapter" with "section" because §219.30 is the only section in Subchapter C of Chapter 219 that provides for the issuance of a permit under Transportation Code, §623.011. An adopted amendment to §219.30(d)(3) removes reference to the vehicle's inspection sticker because vehicle inspection stickers are no longer issued in Texas. The vehicle inspection requirements in Texas are enforced through vehicle registration under Transportation Code, §502.047 and §548.256. An adopted amendment to §219.30(d) deletes paragraph (5) because the language is inconsistent with Transportation Code, §623.013, which was amended by Senate Bill 1814, 87th Legislature, Regular Session (2021). An adopted amendment to §219.30 deletes subsection (g) because most of the language is contained in Transportation Code, §621.508, which provides an affirmative defense to prosecution of, or an action under Transportation Code, Chapter 623, Subchapter F for the offense of operating a vehicle with a single axle weight or tandem axle weight heavier than the axle weight authorized by law. The adopted amendments to §219.30 re-letter the remaining subsection to address the removal of §219.30(g).

An adopted amendment to §219.32(k) deletes language that is contained in Transportation Code, §623.0171 because it is not necessary to repeat statutory language in rule. An adopted amendment to §219.32(k) also restructures the language due to the deletion of the paragraphs under subsection (k).

An adopted amendment to §219.35(a) updates the citation to the subchapter under which the fluid milk permit is located in Transportation Code, Chapter 623. The legislature redesignated the statutes for the fluid milk permit from Subchapter U to Subchapter V.

An adopted amendment to §219.36(a) deletes reference to the bill under which Transportation Code, §623.401, et seq. became law because Transportation Code, Chapter 623 currently only contains one Subchapter U. The legislature redesignated the statutes for the fluid milk permit from Subchapter U to Subchapter V.

Subchapter D. Permits for Oversize and Overweight Oil Well Related Vehicles

Adopted amendments to §219.42(d) add a hyphen between the words "trailer" and "mounted" because these words are compound modifiers for the term "trailer-mounted unit." An adopted amendment to §219.42(d)(3) also removes outdated language regarding the calculation of the fee for a single-trip permit for the movement of a trailer-mounted oil well servicing unit. Axles are no longer temporarily disregarded for the purposes of calculating fees for this single-trip permit. In addition, an adopted amendment to §219.42(d)(3) removes the subparagraph letter for prior subparagraph (A) due to the deletion of subparagraph (B), which was the only other subparagraph under prior §219.42(d)(3).

Adopted amendments to §219.43(e) add a hyphen between the words "trailer" and "mounted" because these words are compound modifiers for the term "trailer-mounted unit." An adopted amendment to §219.43(e)(4) also removes outdated language regarding the calculation of the fee for a quarterly hubometer permit for the movement of an oil well servicing unit. Axles are no longer temporarily disregarded for the purposes of calculating the fees for this quarterly hubometer permit.

An adopted amendment to §219.44(a)(1) deletes subparagraph (A) because Transportation Code, §502.146(b)(3) requires the applicant for a permit plate for oil well servicing or drilling machinery to submit proof that the applicant has a permit under Transportation Code, §623.142 before they can obtain a permit plate under Transportation Code, §502.146(b)(3). An adopted amendment to §219.44(a)(1) also removes the subparagraph letter for prior subparagraph (B) due to the deletion of subparagraph (A), which was the only other subparagraph under prior §219.44(a)(1).

An adopted amendment to §219.45(a) replaces the word "fracing" with "fracking," which is defined as "the injection of fluid into shale beds at high pressure in order to free up petroleum resources (such as oil or natural gas)." See Fracking, Merriam-Webster Online Dictionary (www.merriam-webster.com/dictionary/fracking) (last visited January 18, 2024). An adopted amendment to §219.45(c) deletes prior paragraph (2) because the vehicle registration requirements are specified in statute and are not required as part of the application process for a permit for a vehicle transporting liquid products related to oil well production. An adopted amendment to §219.45(c) renumbers the remaining paragraphs due to the deletion of prior paragraph (2). An adopted amendment to renumbered §219.45(c)(3)(C) inserts the word "plate" before the word "number" to clarify that the permittee must provide the department with the "license plate number" for the new trailer.

Subchapter E. Permits for Oversize and Overweight Unladen Lift Equipment Motor Vehicles

An adopted amendment to §219.60 replaces the word "cranes" with "unladen lift equipment motor vehicles" to be consistent with the terminology in Transportation Code, Chapter 623, Subchapters I and J. The department also adopts amendments to the following sections to replace terminology regarding a crane with terminology regarding an unladen lift equipment motor vehicle to be consistent with the terminology in Transportation Code, Chapter 623, Subchapter I and Subchapter J: §§219.61, 219.62, 219.63 and 219.64.

An adopted amendment to §219.61(a) deletes paragraph (4) regarding a trailer-mounted crane, and an adopted amendment to §219.62(d)(2)(B) deletes the mileage rate for a trailer-mounted

crane because Transportation Code, §623.181 and §623.191 say the permits are for an "unladen lift equipment motor vehicle," rather than for a trailer-mounted crane. An adopted amendment to §219.61 deletes prior subsection (g) in conjunction with the adopted amendment to move that language to the definition of "nondivisible load or vehicle" in §219.2.

An adopted amendment to the title for §219.62 replaces the term "Single Trip" with "Single-Trip" to be consistent with the term used in the text of §219.62. An adopted amendment to §219.62(b) adds a space between the colon and title 43 as follows: Figure 1: 43 TAC §219.62(f). An adopted amendment to §219.62(d) deletes paragraph (3) to remove outdated language regarding the calculation of the fee for a single-trip permit for the movement of an unladen lift equipment motor vehicle. Axles are no longer temporarily disregarded for the purposes of calculating fees for this single-trip permit. An adopted amendment to §219.62(d) also renumbers paragraph (4) due to the deletion of paragraph (3).

The department adopts §219.63 with changes at adoption to remove the proposed deletion of a space and the proposed addition of a space in the references to Figure 1: 43 TAC §219.62(f) that the department indicated as changes in the published proposal. An adopted amendment to §219.63(e) deletes paragraph (4) to remove outdated language regarding the calculation of the fee for a hubometer permit for the movement of an unladen lift equipment motor vehicle. Axles are no longer temporarily disregarded for the purposes of calculating fees for this hubometer permit.

Transportation Code, §623.145 and §623.195 require the board to consult with the Texas Transportation Commission prior to the adoption of certain rules regarding oversize and overweight permits for the operation of oil well servicing and drilling machinery and unladen lift equipment motor vehicles. To comply with these statutory requirements, the board consulted with the Texas Transportation Commission on the amendments to 43 TAC §§219.41 - 219.45 and 219.60 - 219.64. The department provided the proposed amendments to the Texas Transportation Commission through TxDOT's staff. The Texas Transportation Commission considered the proposed amendments at its public meeting on April 25, 2024, and entered a Minute Order to document compliance with Transportation Code, §623.145 and §623.195.

Subchapter F. Compliance

An adopted amendment to §219.81 deletes subsection (c) because the department does not have rulemaking authority under Transportation Code, Chapters 621 through 623 to prohibit a person from operating a vehicle on a highway or public road if the vehicle exceeds its gross weight registration. The vehicle registration weight requirements are enforced by law enforcement officers under statutes, such as Transportation Code, §§502.472, 621.002, 621.406, and 621.501.

The department adopts the repeal of §219.84 because the department replaced the remote permit system with TxPROS and the department does not require applicants to sign a contract to use TxPROS. The department adopts the repeal of §219.86 because it exceeds the scope of the department's rulemaking authority. Although Transportation Code, §623.146 and §623.196 contain language that is similar to the language in §219.86 for certain permits, the language in §219.86 applies to all permits. Not all permits under Chapter 219 are governed by Transportation Code, §623.146 and §623.196.

Subchapter G. Records and Inspections

An adopted amendment to §219.102(b)(2) deletes language that says the display of an image that includes permit information on a wireless communication device does not constitute effective consent for a law enforcement officer or any other person to access the contents of the wireless communication device except to view the permit information. The department does not have the statutory authority for this language in §219.102(b)(2)(B). However, the person who chooses to display an image of a permit on a wireless communication device can discuss the extent of their consent with the law enforcement officer or any other person prior to displaying an image of a permit on a wireless communication device. An adopted amendment to §219.102(b)(2) re-letters the remaining subparagraph due to the deletion of prior §219.102(b)(2)(B). An adopted amendment to §219.102(b)(2) also deletes language in prior subparagraph (D) that said a telecommunications provider may not be held liable to the operator of the motor vehicle for the failure of a wireless communication device to display permit information. The department does not have the statutory authority for the language in prior §219.102(b)(2)(D).

Subchapter H. Administrative Penalties and Sanctions

The department adopts the repeal of §219.123 because it repeats the language found in Transportation Code, §623.271(e). It is not necessary to repeat statutory language in rule.

SUMMARY OF COMMENTS.

No comments on the proposed amendments, new sections and repeals were received.

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §§219.1, 219.2, 219.5, 219.7, 219.9

STATUTORY AUTHORITY. The department adopts amendments and new sections under Transportation Code, §621.008, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 621; Transportation Code, §621.356, which authorizes the board to adopt rules prescribing the method of payment of a fee for a permit that is issued by the department for the operation of a vehicle and load or a combination of vehicles and load that exceed size or weight limitations; Transportation Code, §622.002, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 622, including Transportation Code, §622.051, et seq. which authorize the department to issue a permit for transporting poles required for the maintenance of electric power transmission and distribution lines; Transportation Code, §623.002, which authorizes the board to adopt rules as necessary to implement Transportation Code, Chapter 623; Transportation Code, §623.0171, which requires the department by rule to require an applicant for a permit for a ready-mixed concrete truck to designate the counties in which the applicant intends to operate; Transportation Code, §623.070, et seq. which authorize the department to issue a permit to an applicant to move certain equipment or commodities and prescribe the application requirements for such permits; Transportation Code, §623.074, which authorizes the department to adopt a rule to authorize an applicant to submit an application electronically and to require an application for certain permits to include the region or area over which the equipment is to be operated; Transportation Code, §623.076, which authorizes the board to adopt rules for the payment of a fee under Subchapter D of Transportation Code, Chapter 623

regarding heavy equipment; Transportation Code, §623.095(c), which authorizes the department to adopt rules concerning the requirements for a permit under §623.095(c) regarding an annual permit for a person authorized to be issued permits under Transportation Code, §623.094 for the transportation of new manufactured homes from a manufacturing facility to a temporary storage location not to exceed 20 miles from the point of manufacture; Transportation Code, §623.145, which requires the board, in consultation with the Texas Transportation Commission, to adopt rules to provide for the issuance of a permit under Subchapter G of Transportation Code, Chapter 623 regarding oil well servicing and drilling machinery; Transportation Code, §623.195, which requires the board, in consultation with the Texas Transportation Commission, to adopt rules to provide for the issuance of a permit under Subchapter J of Transportation Code, Chapter 623 regarding unladen lift equipment motor vehicles; Transportation Code, §623.342, which authorizes the board to adopt rules that are necessary to implement Subchapter R of Transportation Code, Chapter 623 regarding permits to deliver relief supplies during a major disaster; Transportation Code, §623.411, which authorizes the department to adopt rules that are necessary to implement Subchapter U of Transportation Code, Chapter 623, including rules governing the application for a permit under Subchapter U regarding intermodal shipping containers; Transportation Code, §623.427, which authorizes the department to adopt rules that are necessary to implement Subchapter V of Transportation Code, Chapter 623 regarding vehicles transporting fluid milk; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; Transportation Code, §1001.009, which authorizes the board to adopt rules regarding the method of collection of a fee for any goods sold or services provided by the department, including the issuance of licenses and permits; Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and the statutory authority referenced throughout the preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted amendments and new sections implement Transportation Code, Chapters 621, 622, 623, 1001, and 1002; and Government Code, Chapter 2001.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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SUBCHAPTER B. GENERAL PERMITS

43 TAC §§219.11 - 219.15

STATUTORY AUTHORITY. The department adopts amendments under Transportation Code, §621.008, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 621; Transportation Code, §622.002, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 622, including Transportation Code, §622.051, et seq. which authorize the department to issue a permit for transporting poles required for the maintenance of electric power transmission and distribution lines; Transportation Code, §623.002, which authorizes the board to adopt rules as necessary to implement Transportation Code, Chapter 623; Transportation Code, §623.003, which requires the department to base the department's routing decision on information provided by TxDOT to the extent the department is required to determine a route under Transportation Code, Chapter 623; Transportation Code, §623.008, which authorizes the department to require a person operating under a permit issued by the department to use one or more escort flag vehicles and escort flaggers if required by TxDOT or for the safe movement over the roads of an oversize or overweight vehicle and its load; Transportation Code, §623.070, et seq. which authorize the department to issue a permit to an applicant to move certain equipment or commodities and prescribe the application requirements for such permits; Transportation Code, §623.072 which authorizes the department to determine the route of the equipment and the commodity on each state highway in the municipality if the municipality with a state highway in its territory does not designate a route; Transportation Code, §623.074, which authorizes the department to adopt a rule to require an application for certain permits to include the region or area over which the equipment is to be operated; Transportation Code, §623.095(c), which authorizes the department to adopt rules concerning the requirements for an annual permit for the transportation of new manufactured homes from a manufacturing facility to a temporary storage location not to exceed 20 miles from the point of manufacture; Transportation Code, §623.122 which authorizes the department to determine the route to be used by the equipment on the state highway in the municipality if the municipality with a state highway in its territory does not designate a route; Transportation Code, §623.128, which only authorizes a permit for the movement of portable building units to be used during daylight hours; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and the statutory authority referenced throughout the preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Transportation Code, Chapters 621, 622, 623, and 1002; and Government Code, Chapter 2001.

§219.11. General Oversize/Overweight Permit Requirements and Procedures.

(a) Purpose and scope. This section contains general requirements relating to oversize/overweight permits, including single-trip permits. Specific requirements for each type of specialty permit are provided for in this chapter.

(b) Motor carrier registration or surety bond. Unless exempted by law, prior to obtaining an oversize/overweight permit, an applicant permitted under the provisions of Transportation Code, Chapter 623, Subchapter D, must be registered as a motor carrier under Chapter 218 of this title (relating to Motor Carriers) or, if not required to obtain

a motor carrier registration, file a surety bond with the department as described in subsection (n) of this section.

(c) Permit application.

(1) An application for a permit shall be made in a form and by the method prescribed by the department, and at a minimum shall include the following, unless stated otherwise in this subchapter:

(A) name, customer identification number, and address of the applicant;

(B) name, telephone number, and email address of contact person;

(C) applicant's USDOT Number if applicant is required by law to have a USDOT Number;

(D) complete load description, including maximum width, height, length, overhang, and gross weight;

(E) complete description of vehicle, including truck year, make, license plate number and state of issuance, and vehicle identification number, if required;

(F) vehicle axle and tire information including number of axles, distance between axles, axle weights, number of tires, and tire size for overweight permit applications; and

(G) any other information required by law.

(2) Applications transmitted electronically are considered signed if a digital signature is transmitted with the application and intended by the applicant to authenticate the application.

(A) The department may only accept a digital signature used to authenticate an application under procedures that comply with any applicable rules adopted by the Department of Information Resources regarding department use or acceptance of a digital signature.

(B) The department may only accept a digital signature to authenticate an application if the digital signature is:

(i) unique to the person using it;

(ii) capable of independent verification;

(iii) under the sole control of the person using it; and

(iv) transmitted in a manner that will make it infeasible to change the data in the communication or digital signature without invalidating the digital signature.

(d) Maximum permit weight limits.

(1) General. An overweight permitted vehicle will not be routed over a load-restricted bridge when exceeding the posted capacity of the bridge, unless a special exception is granted by TxDOT, based on an analysis of the bridge performed by a TxDOT approved licensed professional engineer or by TxDOT. Any analysis by a non-TxDOT licensed professional engineer must have final approval from TxDOT.

(A) An axle group must have a minimum spacing of four feet, measured from center of axle to center of axle, between each axle in the group to achieve the maximum permit weight for the group.

(B) The maximum permit weight for an axle group with spacing of five or more feet between each axle will be based on an engineering study of the equipment conducted by TxDOT.

(C) A permitted vehicle will be allowed to have air suspension, hydraulic suspension, and mechanical suspension axles in a common weight equalizing suspension system for any axle group.

(D) The department may permit axle weights greater than those specified in this section, for a specific individual permit request, based on an engineering study of the route and hauling equipment performed by a TxDOT approved licensed professional engineer or by TxDOT. Any analysis by a non-TxDOT licensed professional engineer must have final approval from TxDOT.

(E) A permitted vehicle or combination of vehicles may not exceed the manufacturer's rated tire carrying capacity, unless expressly authorized in the language on the permit based on an analysis performed by a TxDOT approved licensed professional engineer or by TxDOT. Any analysis by a non-TxDOT licensed professional engineer must have final approval from TxDOT.

(F) If two or more consecutive axle groups have an axle spacing of less than 12 feet, measured from the center of the last axle of the preceding group to the center of the first axle of the following group, the maximum permit weight on the axle groups will be reduced by 2.5% for each foot less than 12 feet.

(2) Maximum axle weight limits. Maximum permit weight for an axle or axle group is based on 650 pounds per inch of tire width or the following axle or axle group weights, whichever is the lesser amount:

(A) single axle--25,000 pounds;

(B) two-axle group--46,000 pounds;

(C) three-axle group--60,000 pounds;

(D) four-axle group--70,000 pounds;

(E) five-axle group--81,400 pounds;

(F) axle group with six or more axles--determined by TxDOT based on an engineering study of the equipment, which will include the type of steering system used, the type of axle suspension, the spacing distance between each axle, the number of tires per axle, and the tire size on each axle; or

(G) trunnion axles--30,000 pounds per axle if the trunnion configuration has:

(i) two axles;

(ii) eight tires per axle;

(iii) axles a minimum of 10 feet in width; and

(iv) at least five feet of spacing between the axles, not to exceed six feet.

(3) Weight limits for load restricted roads. Maximum permit weight for an axle or axle group, when traveling on a load restricted road, will be based on 650 pounds per inch of tire width or the following axle or axle group weights, whichever is the lesser amount:

(A) single axle--22,500 pounds;

(B) two-axle group--41,400 pounds;

(C) three-axle group--54,000 pounds;

(D) four-axle group--63,000 pounds;

(E) five-axle group--73,260 pounds;

(F) axle group with six or more axles--determined by TxDOT based on an engineering study of the equipment, which will include the type of steering system used, the type of axle suspension, the spacing distance between each axle, the number of tires per axle, and the tire size on each axle;

(G) trunnion axles--54,000 pounds; and

(H) if two or more consecutive axle groups have an axle spacing of less than 12 feet, measured from the center of the last axle of the preceding group to the center of the first axle of the following group, the maximum permit weight on the axle groups will be reduced by 2.5% for each foot less than 12 feet.

(e) Permit issuance.

(1) General. Upon receiving an application in the form prescribed by the department, the department will review the permit application for the appropriate information and will then determine the most practical route based on information provided by TxDOT.

(2) Routing.

(A) A permitted vehicle will be routed over the most practical route available taking into consideration:

(i) the size and weight of the overdimension load in relation to vertical clearances, width restrictions, steep grades, and reduced capacity or load restricted bridges;

(ii) the geometrics of the roadway in comparison to the overdimension load;

(iii) sections of highways restricted to specific load sizes and weights due to construction, maintenance, and hazardous conditions;

(iv) traffic conditions, including traffic volume;

(v) route designations by municipalities in accordance with Transportation Code, §623.072;

(vi) load restricted roads; and

(vii) other considerations for the safe transportation of the load.

(B) When a permit applicant desires a route other than the most practical, more than one permit will be required for the trip unless an exception is granted by the department.

(3) Movement to and from point of origin or place of business. A permitted vehicle will be allowed to:

(A) move empty oversize and overweight hauling equipment to and from the job site; and

(B) move oversize and overweight hauling equipment with a load from the permitted vehicle's point of origin to pick up a permitted load, and to the permitted vehicle's point of origin or the permittee's place of business after dropping off a permitted load, as long as:

(i) the load does not exceed legal size and weight limits under Transportation Code, Chapters 621 and 622; and

(ii) the transport complies with the permit, including the time period stated on the permit.

(f) Refund of permit fees. A permit fee will not be refunded after the permit number has been issued unless such refund is necessary to correct an error made by the permit officer.

(g) Amendments. A permit may be amended for the following reasons:

(1) vehicle breakdown;

(2) changing the intermediate points in an approved permit route;

(3) extending the expiration date due to conditions which would cause the move to be delayed;

(4) changing route origin or route destination prior to the start date as listed on the permit;

(5) changing vehicle size limits prior to the permit start date as listed on the permit, provided that changing the vehicle size limit does not necessitate a change in the approved route; and

(6) correcting any mistake that is made due to permit officer error.

(h) Requirements for overwidth loads.

(1) Unless stated otherwise on the permit, an overwidth load must travel in the outside traffic lane on multi-lane highways, when the width of the load exceeds 12 feet.

(2) Overwidth loads are subject to the escort requirements of subsection (k) of this section.

(3) A permitted vehicle exceeding 16 feet in width will not be routed on the main lanes of a controlled access highway, unless an exception is granted by TxDOT, based on a route and traffic study. The load may be permitted on the frontage roads when available, if the movement will not pose a safety hazard to other highway users.

(4) An applicant requesting a permit to move a load exceeding 20 feet wide will be furnished with a proposed route. The applicant must physically inspect the proposed route to determine if the vehicle and load can safely negotiate it, unless an exception is granted based on a route and traffic study conducted by TxDOT. A permit application and the appropriate fee are required for every route inspection.

(A) The applicant must notify the department in writing whether the vehicle and load can or cannot safely negotiate the proposed route.

(B) If any section of the proposed route is unacceptable, the applicant shall provide the department with an alternate route around the unacceptable section.

(C) Once a route is decided upon and a permit issued, the permit may not be amended unless an exception is granted by the department.

(i) Requirements for overlength loads.

(1) Overlength loads are subject to the escort requirements stated in subsection (k) of this section.

(2) A single vehicle, such as a motor crane, that has a permanently mounted boom is not considered as having either front or rear overhang as a result of the boom because the boom is an integral part of the vehicle.

(3) When a single vehicle with a permanently attached boom exceeds the maximum legal length of 45 feet, a permit will not be issued if the boom projects more than 25 feet beyond the front bumper of the vehicle, or when the boom projects more than 30 feet beyond the rear bumper of the vehicle, unless an exception is granted by TxDOT, based on a route and traffic study.

(4) Maximum permit length for a single vehicle is 75 feet.

(5) A load extending more than 20 feet beyond the front or rearmost portion of the load carrying surface of the permitted vehicle must have a rear escort flag vehicle, unless an exception is granted by TxDOT, based on a route and traffic study.

(6) A permit will not be issued for an oversize vehicle and load with:

(A) more than 25 feet front overhang; or

(B) more than 30 feet rear overhang, unless an exception is granted by TxDOT, based on a route and traffic study.

(7) An applicant requesting a permit to move an oversize vehicle and load exceeding 125 feet overall length will be furnished with a proposed route. The applicant must physically inspect the proposed route to determine if the oversize vehicle and load can safely negotiate it, unless an exception is granted based on a route and traffic study conducted by TxDOT. A permit application and the appropriate fee are required for every route inspection.

(A) The applicant must notify the department in writing whether the oversize vehicle and load can or cannot safely negotiate the proposed route.

(B) If any section of the proposed route is unacceptable, the applicant shall provide the department with an alternate route around the unacceptable section.

(C) Once a route is decided upon and a permit issued, the permit may not be amended unless an exception is granted by the department.

(8) A permitted vehicle that is not overwidth or overheight, and does not exceed 150 feet overall length, may be moved in a convoy consisting of not more than four overlength permitted vehicles. A permitted vehicle that is not overwidth or overheight that exceeds 150 feet, but does not exceed 180 feet overall length, may be moved in a convoy consisting of not more than two overlength permitted vehicles. Convoys are subject to the requirements of subsection (k) of this section. Each permitted vehicle in the convoy must:

(A) be spaced at least 1,000 feet, but not more than 2,000 feet, from any other permitted vehicle in the convoy; and

(B) have a rotating amber beacon or an amber pulsating light, not less than eight inches in diameter, mounted at the rear top of the load being transported.

(j) Requirements for overheight loads.

(1) Overheight loads are subject to the escort requirements stated in subsection (k) of this section.

(2) An applicant requesting a permit to move an oversize vehicle and load with an overall height of 19 feet or greater will be furnished with a proposed route. The applicant must physically inspect the proposed route to determine if the oversize vehicle and load can safely negotiate it, unless an exception is granted based on a route and traffic study conducted by TxDOT. A permit application and the appropriate fee are required for every route inspection.

(A) The applicant must notify the department in writing whether the oversize vehicle and load can or cannot safely negotiate the proposed route.

(B) If any section of the proposed route is unacceptable, the applicant shall provide the department with an alternate route around the unacceptable section.

(C) Once a route is decided upon and a permit issued, the permit may not be amended unless an exception is granted by the department.

(k) Escort flag vehicle requirements. Escort flag vehicle requirements are provided to facilitate the safe movement of permitted vehicles and to protect the traveling public during the movement of permitted vehicles. A permittee must provide for escort flag vehicles and law enforcement assistance when required by TxDOT. The requirements in this subsection do not apply to the movement of manufactured housing, portable building units, or portable building compatible cargo, unless stated otherwise in this chapter.

(1) General.

(A) Applicability. The operator of an escort flag vehicle shall, consistent with applicable law, warn the traveling public when:

(i) a permitted vehicle must travel over the center line of a narrow bridge or roadway;

(ii) a permitted vehicle makes any turning movement that will require the permitted vehicle to travel in the opposing traffic lanes;

(iii) a permitted vehicle reduces speed to cross under a low overhead obstruction or over a bridge;

(iv) a permitted vehicle creates an abnormal and unusual traffic flow pattern; or

(v) in the opinion of TxDOT, warning is required to ensure the safety of the traveling public or safe movement of the permitted vehicle.

(B) Law enforcement assistance. Law enforcement assistance may be required by TxDOT to control traffic when a permitted vehicle is being moved within the corporate limits of a city, or at such times when law enforcement assistance would provide for the safe movement of the permitted vehicle and the traveling public.

(C) Obstructions. It is the responsibility of the permittee to contact utility companies, telephone companies, television cable companies, or other entities as they may require, when it is necessary to raise or lower any overhead wire, traffic signal, street light, television cable, sign, or other overhead obstruction. The permittee is responsible for providing the appropriate advance notice as required by each entity.

(2) Escort requirements for overwidth loads. Unless an exception is granted based on a route and traffic study conducted by TxDOT, an overwidth load must:

(A) have a front escort flag vehicle if the width of the load exceeds 14 feet, but does not exceed 16 feet, when traveling on a two lane roadway;

(B) have a rear escort flag vehicle if the width of the load exceeds 14 feet, but does not exceed 16 feet, when traveling on a roadway of four or more lanes; and

(C) have a front and a rear escort flag vehicle for all roads, when the width of the load exceeds 16 feet.

(3) Escort requirements for overlength loads. Unless an exception is granted by TxDOT, based on a route and traffic study, overlength loads must have:

(A) a front escort flag vehicle when traveling on a two lane roadway if the vehicle exceeds 110 feet overall length, but does not exceed 125 feet overall length;

(B) a rear escort flag vehicle when traveling on a multilane highway if the vehicle exceeds 110 feet overall length, but does not exceed 125 feet overall length; and

(C) a front and rear escort flag vehicle at all times if the permitted vehicle exceeds 125 feet overall length.

(4) Escort requirements for overheight loads. Unless an exception is granted by TxDOT, based on a route and traffic study, overheight loads must have:

(A) a front escort flag vehicle equipped with a height pole to ensure the vehicle and load can clear all overhead obstructions for any permitted vehicle that exceeds 17 feet in height; and

(B) a front and rear escort flag vehicle for any permitted vehicle exceeding 18 feet in height.

(5) Escort requirements for permitted vehicles exceeding legal limits in more than one dimension. When a load exceeds more than one dimension that requires an escort under this subsection, front and rear escort flag vehicles will be required unless an exception is granted by TxDOT.

(6) Escort requirements for convoys. Convoys must have a front escort flag vehicle and a rear escort flag vehicle on all highways at all times.

(7) General equipment requirements. The following special equipment requirements apply to permitted vehicles and escort flag vehicles that are not motorcycles.

(A) An escort flag vehicle must be a single unit with a gross vehicle weight (GVW) of not less than 1,000 pounds nor more than 10,000 pounds.

(B) An escort flag vehicle must be equipped with two flashing amber lights; one rotating amber beacon of not less than eight inches in diameter; or alternating or flashing blue and amber lights, each of which must be visible from all directions while actively engaged in escort duties for the permitted vehicle.

(C) An escort flag vehicle must display a sign, on either the roof of the vehicle, or the front and rear of the vehicle, with the words "OVERSIZE LOAD" or "WIDE LOAD." The sign must be visible from the front and rear of the vehicle while escorting the permitted load. The sign must meet the following specifications:

(i) at least five feet, but not more than seven feet in length, and at least 12 inches, but not more than 18 inches in height;

(ii) the sign must have a yellow background with black lettering;

(iii) letters must be at least eight inches, but not more than 10 inches high with a brush stroke at least 1.41 inches wide; and

(iv) the sign must be visible from the front or rear of the vehicle while escorting the permitted vehicle, and the signs must not be used at any other time.

(D) An escort flag vehicle must maintain two-way communications with the permitted vehicle and other escort flag vehicles involved with the movement of the permitted vehicle.

(8) Equipment requirements for motorcycles.

(A) An official law enforcement motorcycle may be used as a primary escort flag vehicle for a permitted vehicle traveling within the limits of an incorporated city, if the motorcycle is operated by a highway patrol officer, sheriff, or duly authorized deputy, or municipal police officer.

(B) An escort flag vehicle must maintain two-way communications with the permitted vehicle and other escort flag vehicles involved with the movement of the permitted vehicle.

(l) Restrictions.

(1) Daytime and nighttime movement restrictions.

(A) A permitted vehicle may be moved only during the daytime unless:

(i) the permitted vehicle is overweight only;

(ii) the permitted vehicle is traveling on an interstate highway and does not exceed 10 feet wide and 100 feet long, with front and rear overhang that complies with legal standards; or

(iii) the permitted vehicle meets the criteria of clause (ii) of this subparagraph and is overweight.

(B) An exception may be granted allowing nighttime movement, based on a route and traffic study conducted by TxDOT. Escort flag vehicles may be required when an exception allowing nighttime movement is granted.

(2) Holiday restrictions.

(A) Effective through January 10, 2025, the maximum size limits for a permit issued under Transportation Code, Chapter 623, Subchapter D, for holiday movement is 14 feet wide, 16 feet high, and 110 feet long, unless an exception is granted based on a route and traffic study conducted by TxDOT.

(B) The department may restrict holiday movement of specific loads based on TxDOT's determination that the load could pose a hazard for the traveling public due to local road or traffic conditions.

(3) Curfew restrictions. The operator of a permitted vehicle must observe the curfew movement restrictions published by the department.

(m) General provisions.

(1) Multiple commodities.

(A) When a permitted commodity creates a single overdimension, two or more commodities may be hauled as one permit load, provided legal axle weight and gross weight are not exceeded, and provided an overdimension of width, length or height is not created or made greater by the additional commodities. For example, a permit issued for the movement of a 12 foot wide storage tank may also include a 10 foot wide storage tank loaded behind the 12 foot wide tank provided that legal axle weight and gross weight are not exceeded, and provided an overdimension of width, length or height is not created.

(B) Subject to the restrictions in subparagraph (A) of this paragraph and the definition of a "nondivisible load or vehicle" in §219.2 of this title (relating to Definitions), an applicant requesting a permit to haul a dozer and its detached blade may be issued a permit, as a nondivisible load, if removal of the blade will decrease the overall width of the load, thereby reducing the hazard to the traveling public.

(2) Oversize hauling equipment. A vehicle that exceeds the legal size limits, as set forth by Transportation Code, Chapter 621, Subchapter C, may only haul a load that exceeds legal size limits unless otherwise noted in this subchapter, but such vehicle may haul an overweight load that does not exceed legal size limits, except for the special exception granted in §219.13(c)(3) of this title (relating to Time Permits).

(n) Surety bonds under Transportation Code, §623.075.

(1) General requirements. The surety bond must comply with the following requirements:

(A) be in the amount of $10,000;

(B) be filed on a form and in a manner prescribed by the department;

(C) be effective the day it is issued and expire at the end of the state fiscal year;

(D) include the primary mailing address and zip code of the principal;

(E) be signed by the principal; and

(F) have a single entity as principal with no other principal names listed.

(2) Non-resident agent. A non-resident agent with a valid Texas insurance license may issue a surety bond on behalf of an authorized insurance company when in compliance with Insurance Code, Chapter 4056.

(3) Certificate of continuation. A certificate of continuation will not be accepted.

(4) Electronic copy of surety bond. The department will accept an electronic copy of the surety bond in lieu of the original surety bond.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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SUBCHAPTER C. PERMITS FOR OVER AXLE AND OVER GROSS WEIGHT TOLERANCES

43 TAC §§219.30 - 219.32, 219.34 - 219.36

STATUTORY AUTHORITY. The department adopts amendments under Transportation Code, §621.008, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 621; Transportation Code, §623.002, which authorizes the board to adopt rules as necessary to implement Transportation Code, Chapter 623; Transportation Code, §623.003, which requires the department to base the department's routing decision on information provided by TxDOT to the extent the department is required to determine a route under Transportation Code, Chapter 623; Transportation Code, §623.0171, which requires the department by rule to require an applicant for a permit for a ready-mixed concrete truck to designate the counties in which the applicant intends to operate; Transportation Code, §623.0171, which requires the department by rule to specify how 50 percent of the fee collected for a permit for a ready-mixed concrete truck shall be divided among and distributed to the counties designated in the permit application; Transportation Code, §623.0172, which prohibits the use of a permit issued under this section on routes for which TxDOT has not authorized the operation of a vehicle combination described by §623.0172(b); Transportation Code, §623.343, which authorizes the department to impose conditions on a permit holder to ensure the safe operation of a permitted vehicle and minimize damage to roadways, including requirements relating to vehicle routing, hours of operation, weight limits, and requirements for escort vehicles; Transportation Code, §623.405, which only authorizes a permit for an intermodal shipping container to be used on highways and roads approved by TxDOT; Transportation Code, §623.411, which requires the department to adopt rules that are necessary to implement Subchapter U of Transportation Code, Chapter 623, regarding intermodal shipping containers; Transportation Code, §623.424, which only authorizes a permit for fluid milk to be used on highways and roads approved by TxDOT; Transportation Code, §623.427, which requires the department to adopt rules that are necessary to implement Subchapter V of Transportation Code, Chapter 623 regarding vehicles transporting fluid milk; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and the statutory authority referenced throughout the preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The amendments implement Transportation Code, Chapters 621, 623, and 1002; and Government Code, Chapter 2001.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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SUBCHAPTER D. PERMITS FOR OVERSIZE AND OVERWEIGHT OIL WELL RELATED VEHICLES

43 TAC §§219.41 - 219.45

STATUTORY AUTHORITY. The department adopts amendments under Transportation Code, §621.008, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 621; Transportation Code, §623.002, which authorizes the board to adopt rules as necessary to implement Transportation Code, Chapter 623; Transportation Code, §623.003, which requires the department to base the department's routing decision on information provided by TxDOT to the extent the department is required to determine a route under Transportation Code, Chapter 623; Transportation Code, §623.145, which requires the board, in consultation with the Texas Transportation Commission, to adopt rules to provide for the issuance of a permit under Subchapter G of Transportation Code, Chapter 623 regarding oil well servicing and drilling machinery, including rules regarding conditions on the route and time of movement; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and the statutory authority referenced throughout the preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Transportation Code, Chapters 621, 623, and 1002; and Government Code, Chapter 2001.

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SUBCHAPTER E. PERMITS FOR OVERSIZE AND OVERWEIGHT UNLADEN LIFT EQUIPMENT MOTOR VEHICLES

43 TAC §§219.60 - 219.64

STATUTORY AUTHORITY. The department adopts amendments under Transportation Code, §621.008, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 621; Transportation Code, §623.002, which authorizes the board to adopt rules as necessary to implement Transportation Code, Chapter 623; Transportation Code, §623.003, which requires the department to base the department's routing decision on information provided by TxDOT to the extent the department is required to determine a route under Transportation Code, Chapter 623; Transportation Code, §623.181, which authorizes the department to issue an annual permit for the movement over a highway or road in this state of an unladen lift equipment motor vehicle that exceeds the maximum weight or width limitations prescribed by statute; Transportation Code, §623.195, which requires the board, in consultation with the Texas Transportation Commission, to adopt rules to provide for the issuance of a permit under Subchapter J of Transportation Code, Chapter 623 regarding trip permits for unladen lift equipment motor vehicles, including rules regarding conditions on the route and time of movement; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and the statutory authority referenced throughout the preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Transportation Code, Chapters 621, 623, and 1002; and Government Code, Chapter 2001.

§219.63. Quarterly Hubometer Permits.

(a) General information.

(1) Permits issued under this section are subject to the requirements of §219.61 of this title (relating to General Requirements for Permits for Oversize and Overweight Unladen Lift Equipment Motor Vehicles).

(2) A quarterly hubometer permit:

(A) is effective for three consecutive months;

(B) allows the unladen lift equipment motor vehicle to travel on all state-maintained highways; and

(C) allows the unladen lift equipment motor vehicle to travel on a state-wide basis.

(3) An unladen lift equipment motor vehicle permitted under this section must not exceed any of the following dimensions:

(A) 12 feet in width;

(B) 14 feet, 6 inches in height; or

(C) 95 feet in length.

(4) With the exception of unladen lift equipment motor vehicles that are overlength only, unladen lift equipment motor vehicles operated with a quarterly hubometer permit must be equipped with a hubometer. The permittee must maintain the hubometer in good working condition.

(5) An unladen lift equipment motor vehicle exceeding 175,000 pounds gross weight must:

(A) have front and rear escort flag vehicles to prevent traffic from traveling beside the unladen lift equipment motor vehicle as it crosses a bridge;

(B) cross all multi-lane bridges by centering the unladen lift equipment motor vehicle on a lane line;

(C) cross all two-lane bridges in the center of the bridge; and

(D) cross each bridge at a speed not greater than 20 miles per hour.

(6) The permitted unladen lift equipment motor vehicle must not cross a load-restricted bridge when exceeding the posted capacity of the bridge.

(7) The permit may be amended only to change the following:

(A) if listed on the permit, the hubometer serial number; or

(B) the license plate number.

(b) Maximum permit weight limits.

(1) The maximum permit weight for any single axle must not exceed 30,000 pounds or 850 pounds per inch of tire width, whichever is less.

(2) The maximum permit weight for any group of axles on an unladen lift equipment motor vehicle will be determined by calculating the "W" weight for the group, using the formulas in Figure 2: 43 TAC §219.62(f), "Maximum Permit Weight Formulas," and comparing the calculated "W" weight with the corresponding "W" weight that is established in Figure 1: 43 TAC §219.62(f), "Maximum Permit Weight Table."

(3) The maximum permit weight per inch of tire width for axles that are steerable must not exceed 950 pounds, and the maximum permit weight per inch of tire width for axles that are not steerable must not exceed 850 pounds.

(4) An unladen lift equipment motor vehicle that has any group of axles that exceeds the limits established by Figure 1: 43 TAC §219.62(f), "Maximum Permit Weight Table," and Figure 2: 43 TAC

§219.62(f), "Maximum Permit Weight Formulas," is not eligible for a permit under this section; however, it is eligible for a permit under §219.62 of this title (relating to Single-Trip Mileage Permits).

(c) Initial permit application and issuance.

(1) An application for an initial quarterly hubometer permit must be made in accordance with §219.61(b) of this title. In addition, the applicant must provide the current hubometer mileage reading and an initial $31 processing fee.

(2) Upon verification of the unladen lift equipment motor vehicle information and receipt of the permit fee, the department will provide a copy of the permit to the applicant, and will also provide a renewal application form to the applicant.

(d) Permit renewals and closeouts.

(1) An application for a permit renewal or closeout must be made on a form and in a manner prescribed by the department.

(2) Upon receipt of the renewal application, the department will verify the unladen lift equipment motor vehicle information, check mileage traveled on the last permit, calculate the new permit fee, and advise the applicant of the permit fee.

(e) Permit fees.

(1) Minimum fee. The minimum fee for a quarterly hubometer permit is either the calculated permit fee or $31, whichever is the greater amount.

(2) Fees for overlength unladen lift equipment motor vehicles. An unladen lift equipment motor vehicle that is overlength only is not required to have a hubometer. The fee for this permit is $31.

(3) Quarterly hubometer permit fee calculation. The permit fee for a quarterly hubometer permit is calculated by multiplying the hubometer mileage, the highway use factor, and the total rate per mile, and then adding the indirect cost share to the product.

(A) Hubometer mileage. Mileage for a quarterly hubometer permit is determined by the unladen lift equipment motor vehicle's current hubometer mileage reading minus the unladen lift equipment motor vehicle's hubometer mileage reading from the previous quarterly hubometer permit.

(B) Highway use factor. The highway use factor for a quarterly hubometer permit is 0.3.

(C) Total rate per mile. The total rate per mile is the combined mileage rates for width, height, and weight for the unladen lift equipment motor vehicle.

(i) The mileage rate for width is $.06 per mile for each foot (or fraction thereof) above legal width.

(ii) The mileage rate for height is $.04 per mile for each foot (or fraction thereof) above legal height.

(iii) The mileage rate for a single axle or any axle within a group that exceeds 20,000 pounds, but is less than or equal to 25,000 pounds, is calculated by multiplying $.045 times the amount by which the axle or axle group weight exceeds the legal weight for the axle or axle group and dividing the resultant figure by 1,000 pounds.

(iv) The mileage rate for a single axle or any axle within a group that exceeds 25,000 pounds, but is less than or equal to 30,000 pounds, is calculated by multiplying $.055 times the amount by which the axle or axle group weight exceeds the legal weight for the axle or axle group and dividing the resultant figure by 1,000 pounds.

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SUBCHAPTER F. COMPLIANCE

43 TAC §219.81

STATUTORY AUTHORITY. The department adopts the amendment under Transportation Code, §621.008, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 621; Transportation Code, §622.002, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 622; Transportation Code, §623.002, which authorizes the board to adopt rules as necessary to implement Transportation Code, Chapter 623; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and the statutory authority referenced throughout the preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted amendment implements Transportation Code, Chapters 621, 622, 623, and 1002; and Government Code, Chapter 2001.

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43 TAC §219.84, §219.86

STATUTORY AUTHORITY. The department adopts the repeals under Transportation Code, §621.008, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 621; Transportation Code, §622.002, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 622; Transportation Code, §623.002, which authorizes the board to adopt rules as necessary to implement Transportation Code, Chapter 623; Transportation Code, §1002.001,

which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout the preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted repeals implement Transportation Code, Chapters 621, 622, 623 and 1002.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Effective date: July 18, 2024
Proposal publication date: February 23, 2024
For further information, please call: (512) 465-4160

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SUBCHAPTER G. RECORDS AND INSPECTIONS

43 TAC §219.102

STATUTORY AUTHORITY. The department adopts the amendments under Transportation Code, §621.008, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 621; Transportation Code, §622.002, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 622; Transportation Code, §623.002, which authorizes the board to adopt rules as necessary to implement Transportation Code, Chapter 623; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and the statutory authority referenced throughout the preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The amendments implement Transportation Code, Chapters 621, 622, and 623; and Government Code, Chapter 2001.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on June 28, 2024.

TRD-202402855
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Effective date: July 18, 2024
Proposal publication date: February 23, 2024
For further information, please call: (512) 465-4160

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SUBCHAPTER H. ADMINISTRATIVE PENALTIES AND SANCTIONS

43 TAC §219.123

STATUTORY AUTHORITY. The department adopts the repeal under Transportation Code, §621.008, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 621; Transportation Code, §622.002, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 622; Transportation Code, §623.002, which authorizes the board to adopt rules as necessary to implement Transportation Code, Chapter 623; Transportation Code, §623.271, which requires the payment of an administrative penalty under §623.271 before the department may issue a permit under Transportation Code, Chapter 623 to a person who has been ordered to pay the administrative penalty and for the vehicle that is the subject of the enforcement order; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; Government Code, §2001.054, which specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license; and the statutory authority referenced throughout the preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted repeal implements Transportation Code, Chapters 621, 622, and 623; and Government Code, Chapter 2001.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on June 28, 2024.

TRD-202402856
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Effective date: July 18, 2024
Proposal publication date: February 23, 2024
For further information, please call: (512) 465-4160

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Texas

TRANSFERRED RULES

The Government Code, §2002.058, authorizes the Secretary of State to remove or transfer rules within the Texas Administrative Code when the agency that promulgated the rules is abolished. The Secretary of State will publish notice of rule transfer or removal in this section of the *Texas Register*. The effective date of a rule transfer is the date set by the legislature, not the date of publication of notice. Proposed or emergency rules are not subject to administrative transfer.

Department of Aging and Disability Services

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 41, Consumer Directed Services Option are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 264, Consumer Directed Services Option.

The rules will be transferred in the Texas Administrative Code effective September 1, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 41

TRD-202402836

Health and Human Services Commission

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 41, Consumer Directed Services Option are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 264, Consumer Directed Services Option.

The rules will be transferred in the Texas Administrative Code effective September 1, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 41

TRD-202402837

Figure: 40 TAC Chapter 41

Current Rules **Title 40. Social Services and Assistance** **Part 1. Department of Aging and Disability Services** **Chapter 41. Consumer Directed Services Option**	**Move to** **Title 26. Health and Human Services** **Part 1. Health and Human Services Commission** **Chapter 264. Consumer Directed Services Option**
Subchapter A. Introduction	**Subchapter A. Introduction**
§41.101. Introduction.	§264.101. Introduction.
§41.103. Definitions.	§264.103. Definitions.
§41.105. Application.	§264.105. Application.
§41.107. Overview of the CDS Option.	§264.107. Overview of the CDS Option.
§41.108. Services Available Through the CDS Option.	§264.108. Services Available Through the CDS Option.
§41.109. Enrollment in the CDS Option.	§264.109. Enrollment in the CDS Option.
§41.111. Service Planning in the CDS Option.	§264.111. Service Planning in the CDS Option.
Subchapter B. Responsibilities of Employers and Designated Representatives	**Subchapter B. Responsibilities of Employers and Designated Representatives**
§41.205. Employer Appointment of a Designated Representative.	§264.205. Employer Appointment of a Designated Representative.
§41.206. Proof of Guardianship for the Employer.	§264.206. Proof of Guardianship for the Employer.
§41.207. Initial Orientation of an Employer.	§264.207. Initial Orientation of an Employer.
§41.209. Employer-Agent Registration.	§264.209. Employer-Agent Registration.
§41.211. Financial Management Services.	§264.211. Financial Management Services.
§41.213. Employer Support Services.	§264.213. Employer Support Services.
§41.215. Employer Role in the Service Planning Process.	§264.215. Employer Role in the Service Planning Process.
§41.217. Employer Responsibilities Regarding Service Backup Plan.	§264.217. Employer Responsibilities Regarding Service Backup Plan.
§41.219. CDSA Reports.	§264.219. CDSA Reports.
§41.221. Corrective Action Plans.	§264.221. Corrective Action Plans.
§41.223. Liability Acknowledgment and Workers' Compensation.	§264.223. Liability Acknowledgment and Workers' Compensation.
§41.225. Criminal History Check of an Applicant for Employment and an Employee.	§264.225. Criminal History Check of an Applicant for Employment and an Employee.
§41.227. Required Registry Checks.	§264.227. Required Registry Checks.
§41.229. Licensure and Certification Verification.	§264.229. Licensure and Certification Verification.
§41.231. Verification of Eligibility of an Employee or Contractor.	§264.231. Verification of Eligibility of an Employee or Contractor.
§41.233. Training and Management of Service Providers.	§264.233. Training and Management of Service Providers.

§41.235. Verification of Eligibility for Vendors.	§264.235. Verification of Eligibility for Vendors.
§41.237. Service Provider Agreements.	§264.237. Service Provider Agreements.
§41.238. Service Delivery Requirements.	§264.238. Service Delivery Requirements.
§41.239. Documentation of Services Delivered.	§264.239. Documentation of Services Delivered.
§41.241. Payment of Services.	§264.241. Payment of Services.
§41.243. Record Retention.	§264.243. Record Retention.
Subchapter C. Enrollment and Responsibilities of Financial Management Services Agencies (FMSAS)	**Subchapter C. Enrollment and Responsibilities of Financial Management Services Agencies (FMSAS)**
§41.301. Contracting as an FMSA.	§264.301. Contracting as an FMSA
§41.303. Obtaining and Revoking Federal and State Approval to be a Vendor Fiscal/Employer Agent.	§264.303. Obtaining and Revoking Federal and State Approval to be a Vendor Fiscal/Employer Agent
§41.305. Appointment of a Designated Representative.	§264.305. Appointment of a Designated Representative.
§41.306. Proof of Guardianship for Financial Management Services Agencies.	§264.306. Proof of Guardianship for Financial Management Services Agencies.
§41.307. Initial Orientation of an Employer.	§264.307. Initial Orientation of an Employer.
§41.309. Financial Management Services, CFC Support Management, and Vendor Fiscal/Employer Agent Responsibilities.	§264.309. Financial Management Services, CFC Support Management, and Vendor Fiscal/Employer Agent Responsibilities.
§41.311. Employer Support Services and Support Consultation Services.	§264.311. Employer Support Services and Support Consultation Services.
§41.313. Individual Service Planning Process.	§264.313. Individual Service Planning Process.
§41.315. Service Back-up Plan.	§264.315. Service Back-up Plan.
§41.317. CDSA Reports.	§264.317. CDSA Reports.
§41.319. Corrective Action Plans.	§264.319. Corrective Action Plans.
§41.321. Liability Acknowledgment and Workers' Compensation.	§264.321. Liability Acknowledgment and Workers' Compensation.
§41.323. Criminal History Check of an Applicant for Employment and to be an Employee.	§264.323. Criminal History Check of an Applicant for Employment and to be an Employee.
§41.325. Required Registry Checks of an Applicant to be an Employee.	§264.325. Required Registry Checks of an Applicant to be an Employee.
§41.327. Verification of Applicants for Employees, Contractors, and Vendors.	§264.327. Verification of Applicants for Employees, Contractors, and Vendors.
§41.329. Continued Eligibility of an Employee, Contractor, or Vendor.	§264.329. Continued Eligibility of an Employee, Contractor, or Vendor.
§41.331. Evaluation of Job Performance and Satisfaction.	§264.331. Evaluation of Job Performance and Satisfaction.
§41.333. Service Agreements.	§264.333. Service Agreements.
§41.335. Documentation of Services Delivered.	§264.335. Documentation of Services Delivered.

§41.337. Payment of Services.	§264.337. Payment of Services.
§41.339. Records.	§264.339. Records.
Subchapter D. Enrollment, Transfer, Suspension, And Termination	**Subchapter D. Enrollment, Transfer, Suspension, And Termination**
§41.401. Enrollment Process.	§264.401. Enrollment Process.
§41.403. Transfer Process.	§264.403. Transfer Process.
§41.404. Ensuring Development, Approval, and Review of Service Backup Plans.	§264.404. Ensuring Development, Approval, and Review of Service Backup Plans.
§41.405. Suspension of Participation in the CDS Option.	§264.405. Suspension of Participation in the CDS Option.
§41.407. Termination of Participation in the CDS Option.	§264.407. Termination of Participation in the CDS Option.
§41.409. Re-enrollment for Participation in the CDS Option.	§264.409. Re-enrollment for Participation in the CDS Option.
Subchapter E. Budgets	**Subchapter E. Budgets**
§41.501. Budget Development.	§264.501. Budget Development.
§41.503. Financial Management Services.	§264.503. Financial Management Services.
§41.505. Payroll Budgeting.	§264.505. Payroll Budgeting.
§41.507. Employer Support Services Budgeting.	§264.507. Employer Support Services Budgeting.
§41.509. Budget Approval.	§264.509. Budget Approval.
§41.511. Budget Revisions and Approval.	§264.511. Budget Revisions and Approval.
Subchapter F. Support Consultation Services and Support Advisory Responsibilities	**Subchapter F. Support Consultation Services and Support Advisory Responsibilities**
§41.601. Support Consultation Services.	§264.601. Support Consultation Services.
§41.603. Support Advisor Qualifications.	§264.603. Support Advisor Qualifications.
§41.605. Support Advisor Responsibilities.	§264.605. Support Advisor Responsibilities.
Subchapter G. Allegations of Abuse, Neglect, and Exploitation	**Subchapter G. Allegations of Abuse, Neglect, and Exploitation**
§41.701. Reporting Allegations of Abuse, Neglect, or Exploitation of an Individual.	§264.701. Reporting Allegations of Abuse, Neglect, or Exploitation of an Individual.
§41.702. Requirements Related to HHSC Investigations When an Alleged Perpetrator is a Service Provider.	§264.702. Requirements Related to HHSC Investigations When an Alleged Perpetrator is a Service Provider.
§41.703. Requirements Related to HHSC Investigations When an Alleged Perpetrator is a Staff Person or a Controlling Person of an FMSA.	§264.703. Requirements Related to HHSC Investigations When an Alleged Perpetrator is a Staff Person or a Controlling Person of an FMSA.
Subchapter H. Oversight	**Subchapter H. Oversight**
§41.801. Oversight.	§264.801. Oversight.

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REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039. Included here are proposed rule review notices, which invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the website and printed copies of these notices may be directed to the *Texas Register* office.

Proposed Rule Reviews

Texas Health and Human Services Commission

Title 1, Part 15

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 1, Part 15, of the Texas Administrative Code (TAC):

Chapter 361, Medicaid Buy-In for Children Program

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 361, Medicaid Buy-In for Children Program, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to AES_Policy_Coordination@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 361" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published but may be found in Title 1, Part 15, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202402814
Jessica Miller
Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: June 27, 2024

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Texas State Board of Examiners of Psychologists

Title 22, Part 21

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists proposes to review and consider for readoption, revision, or repeal the chapters listed below, in its entirety, contained in Title 22, Part 21 of the Texas Administrative Code:

Chapter 463, Applications and Examinations

Chapter 465, Rules of Practice

Chapter 470, Schedule of Sanctions

This review is conducted in accordance with the requirements of Texas Government Codes §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Public comments on the review may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/index.html. The deadline for receipt of comments is 5:00 p.m., Central Time, on August 11, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

The text of the chapters being reviewed will not be published, but may be found in Title 22, Part 21 of the Texas Administrative Code on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202402808
Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Psychologists
Filed: June 26, 2024

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Texas State Board of Examiners of Professional Counselors

Title 22, Part 30

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Professional Counselors proposes to review and consider for readoption, revision, or repeal the chapters listed below, in its entirety, contained in Title 22, Part 30 of the Texas Administrative Code:

Chapter 681, Professional Counselors

This review is conducted in accordance with the requirements of Texas Government Codes §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Public comments on the review may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/index.html. The deadline for receipt of comments is 5:00

p.m., Central Time, on August 11, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

The text of the chapters being reviewed will not be published, but may be found in Title 22, Part 30 of the Texas Administrative Code on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202402810
Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Professional Counselors
Filed: June 26, 2024

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Texas State Board of Social Worker Examiners

Title 22, Part 34

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Social Worker Examiners proposes to review and consider for readoption, revision, or repeal the chapters listed below, in its entirety, contained in Title 22, Part 34 of the Texas Administrative Code:

Chapter 781, Social Worker Licensure

This review is conducted in accordance with the requirements of Texas Government Codes §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Public comments on the review may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/index.html. The deadline for receipt of comments is 5:00 p.m., Central Time, on August 11, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

The text of the chapters being reviewed will not be published, but may be found in Title 22, Part 34 of the Texas Administrative Code on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202402811
Darrel D. Spinks
Executive Director
Texas State Board of Social Worker Examiners
Filed: June 26, 2024

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Texas State Board of Examiners of Marriage and Family Therapists

Title 22, Part 35

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists proposes to review and consider for readoption, revision, or repeal the chapters listed below, in its entirety, contained in Title 22, Part 35 of the Texas Administrative Code:

Chapter 801, Licensure and Regulation of Marriage and Family Therapists

This review is conducted in accordance with the requirements of Texas Government Codes §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Public comments on the review may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/index.html. The deadline for receipt of comments is 5:00 p.m., Central Time, on August 11, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

The text of the chapters being reviewed will not be published, but may be found in Title 22, Part 35 of the Texas Administrative Code on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202402809
Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Marriage and Family Therapists
Filed: June 26, 2024

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Texas Behavioral Health Executive Council

Title 22, Part 41

The Texas Behavioral Health Executive Council proposes to review and consider for readoption, revision, or repeal the chapters listed below, in its entirety, contained in Title 22, Part 41 of the Texas Administrative Code:

Chapter 881, General Provisions

Chapter 882, Applications and Licensing

Chapter 883, Renewals

Chapter 884, Complaints and Enforcement

Chapter 885, Fees

This review is conducted in accordance with the requirements of Texas Government Codes §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Public comments on the review may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/index.html. The deadline for receipt of comments is 5:00 p.m., Central Time, on August 11, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

The text of the chapters being reviewed will not be published, but may be found in Title 22, Part 41 of the Texas Administrative Code on the Secretary of State's website at State Rules and Open Meetings.

TRD-202402805
Darrel D. Spinks
Executive Director
Texas Behavioral Health Executive Council
Filed: June 26, 2024

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Texas Health and Human Services Commission

Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 52, Contracting for Community Services

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 52, Contracting for Community Services, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to hhsrulescoordinationoffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 52" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202402813
Jessica Miller
Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: June 27, 2024

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Texas Department of Motor Vehicles

Title 43, Part 10

The Texas Department of Motor Vehicles (department) will review and consider whether to readopt, readopt with amendments, or repeal 43 Texas Administrative Code, Chapter 217, Vehicle Titles and Registration, Subchapter A; Subchapter B, §§217.21 - 217.26 and 217.28 - 217.64; Subchapter C; Subchapter D; Subchapter E; Subchapter F; Subchapter G; Subchapter H; Subchapter I; Subchapter J; Subchapter K; and Subchapter L. The department will review §217.27 separately in the future.

The department will also review and consider whether to readopt, readopt with amendments, or repeal 43 Texas Administrative Code, Chapter 209, Finance.

This review is being conducted pursuant to Government Code, §2001.039.

The board of the Texas Department of Motor Vehicles will assess whether the reasons for initially adopting these rules continue to exist and whether the rules should be repealed, readopted, or readopted with amendments.

If you want to comment on this rule review proposal, submit your written comments by 5:00 p.m. CDT on August 12, 2024. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

Proposed changes to sections of Chapters 209 and 217 are published in the Proposed Rules section of this issue of the *Texas Register* and are open for a 30-day public comment period.

TRD-202402835
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Filed: June 27, 2024

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Adopted Rule Reviews

Texas Health and Human Services Commission

Title 1, Part 15

The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 1, Part 15, of the Texas Administrative Code (TAC):

Chapter 392, Purchase of Goods and Services for Specific Health and Human Services Commission Programs

Notice of the review of this chapter was published in the April 19, 2024, issue of the *Texas Register* (49 TexReg 2551). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 392 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agency determined that the original reasons for adopting rules in the chapter continue to exist and readopts Chapter 392 except for:

§392.401, Purpose and Applicability;

§392.403, Definitions;

§392.405, Accountability;

§392.407, Provisions for Certain Contracts;

§392.409, Performance Contracts and Ownership of Goods;

§392.603, Provider Application and Contract to Provide FFS Oral Health Treatment Services; and

§392.801, Contracts for Deaf and Hard of Hearing Services.

The identified repeals and any amendments, if applicable, to Chapter 392 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 1 TAC Chapter 392 as required by the Texas Government Code §2001.039.

TRD-202402881
Jessica Miller
Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: June 28, 2024

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State Securities Board

Title 7, Part 7

The State Securities Board (Board) adopts the review of the following chapters of Title 7, Part 7, of the Texas Administrative Code, in accordance with Texas Government Code, §2001.039, Agency Review of Existing Rules: Chapter 115, Securities Dealers and Agents,

and Chapter 116, Investment Advisers and Investment Adviser Representatives. The text of these rules may be found in the Texas Administrative Code, Title 7, Part 7 or through the Board's website at *www.ssb.texas.gov/texas-securities-act-board-rules.*

Notice of the review of the chapters was published in the March 1, 2024, issue of the *Texas Register* (49 TexReg 1287). The Board received no comments concerning Chapter 115. The Board received two comments from interested parties concerning Chapter 116, Investment Advisers and Investment Adviser Representatives.

One comment was from a personal finance publication and the other was from an investment adviser firm that is registered in Texas. Both of the commenters expressed a desire for the Board to revise Chapter 116 to permit investment advisers registered in Texas to include testimonials in their advertisements, which is currently prohibited by Rule §116.15. The commenters also referred to recent changes to Securities and Exchange Commission (SEC) rules that now permit investment advisers that are registered with the SEC to use testimonials under certain circumstances, as long as they comply with the various requirements and conditions in the SEC rule.

State Securities Board staff agrees with this suggestion and plans to draft one or more amendments to the rules in Chapter 116 to be approved for publication and comment for this purpose at a future board meeting. In addition, staff has identified other changes that should be made to various sections within Chapters 115 and 116. These revisions will be proposed in a future issue of the *Texas Register.*

The Board has reviewed and considered for readoption, revision, or repeal all sections of these two chapters, and considered, among other things, whether the reasons for adoption of these rules continue to exist. After its review, the Board finds that the reasons for adopting these rules continue to exist and readopts these chapters, without changes, pursuant to the requirements of the Texas Government Code.

This concludes the review of 7 TAC Chapters 115 and 116.

Issued in Austin, Texas on June 28, 2024.

TRD-202402898
Travis J. Iles
Securities Commissioner
State Securities Board
Filed: June 28, 2024

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Texas Department of Motor Vehicles

Title 43, Part 10

The Texas Department of Motor Vehicles (department) files this notice of readoption of Title 43 Texas Administrative Code (TAC), Part 10, Chapter 219, Oversize and Overweight Vehicles and Loads, Subchapter A; Subchapter B, §§219.10 - 219.15 and 219.17; Subchapter C; Subchapter D; Subchapter E; Subchapter F; Subchapter G; and Subchapter H, subject to the amendments and repeals in Chapters 219 that are also published in this issue of the *Texas Register.* The review was conducted pursuant to Government Code, §2001.039.

Notice of the department's intention to review was published in the February 23, 2024, issue of the *Texas Register* (49 TexReg 1107). The department did not receive any comments on the rule review.

As a result of the review, the department readopts Chapter 219, Subchapter A; Subchapter B, §§219.10 - 219.15 and 219.17; Subchapter C; Subchapter D; Subchapter E; Subchapter F; Subchapter G; and Subchapter H in accordance with the requirements of Government Code, §2001.039, with amendments and repeals in Chapter 219 resulting from the rule review also published in this issue of the *Texas Register.* The department has determined that the reasons for initially adopting the readopted rules continue to exist. The department will review §219.16 separately in the future.

This concludes the review of Chapter 219, Subchapter A; Subchapter B, §§219.10 - 219.15 and 219.17; Subchapter C; Subchapter D; Subchapter E; Subchapter F; Subchapter G; and Subchapter H.

TRD-202402847
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Filed: June 28, 2024

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Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 43 TAC §215.154(b)

If a new license applicant is:	Maximum number of dealer's temporary license plates issued during the first license term is:
1. a franchised motor vehicle dealer	200
2. a franchised motorcycle dealer	50
3. an independent motor vehicle dealer	25
4. an independent motorcycle dealer	10
5. a franchised or independent travel trailer dealer	10
6. a trailer or semitrailer dealer	5
7. an independent mobility motor vehicle dealer	5
8. a wholesale motor vehicle dealer	10

Figure: 43 TAC §215.154(e)(1)

If a vehicle dealer is:	Maximum number of additional dealer's temporary license plates issued with a demonstrated need through proof of sales is:
1. A dealer selling 26 to 50 during the previous 12-month period	5
2. A dealer selling 51 to 100 during the previous 12-month period	10
3. A dealer selling 101 to 150 during the previous 12-month period	15
4. A dealer selling 151 to 199 during the previous 12-month period	20
5. A dealer selling 200-299 during the previous 12-month period	25
6. A dealer selling more than 300 vehicles during the previous 12-month period	30

IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Office of the Attorney General

Texas Health and Safety Code and Texas Water Code
Settlement Notice

The State of Texas gives notice of the following proposed resolution of an environmental enforcement action under the Texas Health and Safety Code and the Texas Water Code. Before the State may enter into a voluntary settlement agreement, pursuant to section 7.110 of the Texas Water Code, the State shall permit the public to comment in writing. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed agreement if the comments disclose facts or considerations indicating that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the law.

Case Title and Court: *Harris County, Texas and The State of Texas Acting by and through the Texas Commission on Environmental Quality, a Necessary and Indispensable Party v. Ricardo F. Romero, Laura Romero, and R&L Building Group, Inc.;* Cause No. 2021-11375 in the 333rd Judicial District Court of Harris County, Texas.

Background: Mr. and Mrs. Romero own and operate R&L Building Group, Inc., which provides demolition and restoration services to residential and commercial properties that have suffered fire and flood damage. R&L Building Group, Inc. was founded in 2017, and operates at 3527, 3535, and 3537 Mansfield Street, Houston, Texas 77091 ("Mansfield Properties"). Mr. and Mrs. Romero are the sole directors and officers of the company and are the recorded property owners for the Mansfield Properties.

On March 23, 2020, a Harris County Flood Control District ("HCFCD") employee observed a dump truck deposit debris on a corner of the property at 3537 Mansfield, which encroached onto adjacent property owned by HCFCD. On November 24, 2020, a Harris County Pollution Control Services Department ("HCPCSD") investigator inspected the property at 3537 Mansfield and observed approximately 1,200 cubic yards of municipal solid waste ("MSW") illegally dumped and encroaching on the adjacent HCFCD property. On January 21, 2021, the HCFCD employee observed Mr. Romero operating excavation equipment digging a hole on the HCFCD property neighboring the Mansfield Properties. Mr. Romero told the employee that he was burying water-based paint at the site. Additional investigations conducted by HCPCSD staff demonstrated continued storage of MSW at the Mansfield Properties and the adjacent HCFCD property through at least May 20, 2021.

Harris County filed suit on February 26, 2021, asserting trespass claims on behalf of HCFCD and violation of Texas Commission on Environmental Quality ("TCEQ") regulations governing MSW on behalf of HCPCSD, against Mr. and Mrs. Romero and R&L Building Group, Inc. (the "Romeros"). Harris County, on behalf of HCFCD, proceeded to hire environmental engineers to assess the extent of waste stored and buried on HCFCD property. Due to delays in the testing and required determinations, Harris County amended its pleading on April 30, 2024, to remove the trespass claims from litigation. As a result, only the civil enforcement claims brought on behalf of HCPSCD remain. The Parties have reached an agreement to resolve the pending enforcement claims only.

Proposed Agreed Judgment: The parties propose an Agreed Final Judgement which provides for a total monetary award of $32,500.00 in civil penalties and attorney's fees from the Romeros. An award of $27,500.00 in civil penalties is to be divided evenly between Harris County and the State. The award of $5,000.00 in attorney's fees and costs will be given to the State. No injunctive relief was deemed necessary. A post-judgment interest, at the legal rate of 8.50%, will be assessed on any payment amount that is not timely.

For a complete description of the proposed settlement, the complete proposed Agreed Final Judgment should be reviewed in its entirety. Requests for copies of the proposed settlement, and written comments on the same, should be directed to Wesley Williams, Assistant Attorney General, Office of the Attorney General of Texas, P.O. Box 12548, MC-066, Austin, Texas 78711-2548, (512) 463-2012, facsimile (512) 320-0911; email: Wesley.Williams@oag.texas.gov. Written comments must be received within 30 days of publication of this notice to be considered.

TRD-202402902
Justin Gordon
General Counsel
Office of the Attorney General
Filed: July 1, 2024

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Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **August 12, 2024**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each

AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on **August 12, 2024**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission's enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: ACE Aggregates, LLC; DOCKET NUMBER: 2023-1032-EAQ-E; IDENTIFIER: RN109436402; LOCATION: Mico, Medina County; TYPE OF FACILITY: aggregate material production; RULE VIOLATED: 30 TAC §213.4(k) and Edwards Aquifer Protection Plan ID Number 13000254, Standard Conditions Number 8, by failing to provide, implement, and maintain a buffer around Edwards Aquifer Sensitive Feature S-2; PENALTY: $6,750; ENFORCEMENT COORDINATOR: Madison Stringer, (512) 239-1126; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(2) COMPANY: Air Products LLC; DOCKET NUMBER: 2021-1087-AIR-E; IDENTIFIER: RN108401332; LOCATION: Baytown, Chambers County; TYPE OF FACILITY: natural gas plant; RULES VIOLATED: 30 TAC §116.115(c) and §122.143(4), New Source Review Permit Numbers 133027 and N220, Special Conditions Number 1, Federal Operating Permit Number O3991, General Terms and Conditions and Special Terms and Conditions Number 5, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: $37,500; ENFORCEMENT COORDINATOR: Amanda Diaz, (713) 422-8912; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(3) COMPANY: ALTAF FOOD STORE, INCORPORATED dba Pennysaver Foodstore; DOCKET NUMBER: 2023-1613-PST-E; IDENTIFIER: RN101447209; LOCATION: Addison, Dallas County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks in a manner which will detect a release at a frequency of at least once every 30 days; PENALTY: $3,375; ENFORCEMENT COORDINATOR: Faye Renfro, (512) 239-1833; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(4) COMPANY: Ascension Seton dba Ascension Seton Medical Center Austin; DOCKET NUMBER: 2023-0624-PST-E; IDENTIFIER: RN102338217; LOCATION: Austin, Travis County; TYPE OF FACILITY: hospital emergency generator; RULES VIOLATED: 30 TAC §334.48(h)(1)(A)(i) and (ii) and TWC, §26.3475(c)(1) and (2), by failing to conduct the walkthrough inspections of the underground storage tank (UST) system's spill prevention equipment and release detection equipment at least once every 30 days; and 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days; PENALTY: $4,876; ENFORCEMENT COORDINATOR: Tiffany Chu, (817) 588-5891; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(5) COMPANY: Bernardo Espinoza and JB STONE, LLC; DOCKET NUMBER: 2023-1505-EAQ-E; IDENTIFIER: RN106170103; LOCATION: Georgetown, Williamson County; TYPE OF FACILITY: stone quarry; RULE VIOLATED: 30 TAC §213.4(k) and Edwards Aquifer Protection Plan ID Number 11002725, Special Condition IV, by failing to comply with an approved Water Pollution Abatement Plan; PENALTY: $750; ENFORCEMENT COORDINATOR: Megan Crinklaw, (512) 239-1129; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(6) COMPANY: Brookeland Independent School District; DOCKET NUMBER: 2022-0178-MWD-E; IDENTIFIER: RN101517308; LOCATION: Brookeland, Sabine County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0013092001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: $12,375; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: $9,900; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(7) COMPANY: BURRIS and SONS, INCORPORATED; DOCKET NUMBER: 2023-0448-PST-E; IDENTIFIER: RN101843670; LOCATION: Fritch, Hutchinson County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks; PENALTY: $4,109; ENFORCEMENT COORDINATOR: Eunice Adegelu, (512) 239-5082; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(8) COMPANY: City of Abbott; DOCKET NUMBER: 2022-0818-MWD-E; IDENTIFIER: RN101720753; LOCATION: Abbott, Hill County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0011544001, Effluent Limitations and Monitoring Requirements Numbers 1 and 3, by failing to comply with permitted effluent limitations; PENALTY: $22,050; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: $17,640; ENFORCEMENT COORDINATOR: Taylor Williamson, (512) 239-2097; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(9) COMPANY: City of Bardwell; DOCKET NUMBER: 2023-0584-MWD-E; IDENTIFIER: RN101721199; LOCATION: Bardwell, Ellis County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0013675001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: $16,312; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: $13,050; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(10) COMPANY: City of Whitewright; DOCKET NUMBER: 2023-1674-MWD-E; IDENTIFIER: RN104957840; LOCATION: Whitewright, Grayson County; TYPE OF FACILITY: wastewater treatment plant; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010644001, Effluent Limitations and Monitoring Requirement Number 1, by failing to comply with the permitted effluent limitations; PENALTY: $21,125; ENFORCEMENT COORDINATOR: Megan Crinklaw, (512) 239-1129; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(11) COMPANY: ClearX, LLC; DOCKET NUMBER: 2023-0915-WQ-E; IDENTIFIER: RN111536389; LOCATION: Hockley, Waller County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §281.25(a)(4) and Texas Pollutant Discharge Elimination System (TPDES) General Permit Number TXR1549JV, Part III,

Section D.1, by failing to make the Stormwater Pollution Prevention Plan readily available; 30 TAC §281.25(a)(4) and TPDES General Permit Number TXR1549JV, Part III, Section F.2(a)(ii), by failing to install Best Management Practices (BMPs); 30 TAC §281.25(a)(4) and TPDES General Permit Number TXR1549JV, Part III, Section F.6(a), (b), and (c), by failing to maintain BMPs in effective operating condition; and 30 TAC §281.25(a)(4), TWC, §26.121, and TPDES General Permit Number TXR1549JV, Part III, Section F.6(d), by failing to remove accumulations of sediment at a frequency that minimizes off-site impacts; PENALTY: $9,713; ENFORCEMENT COORDINATOR: Monica Larina, (361) 881-6965; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, (361) 881-6900.

(12) COMPANY: CONATSER CONSTRUCTION TX, L.P.; DOCKET NUMBER: 2024-0229-WQ-E; IDENTIFIER: RN111033726; LOCATION: Granbury, Hood County; TYPE OF FACILITY: residential construction site; RULES VIOLATED: TWC, §26.121(a)(2), by failing to prevent an unauthorized discharge of sediment into or adjacent to any water in the state; and 30 TAC §281.25(a)(4), 40 Code of Federal Regulations §122.26(c), and Texas Pollutant Discharge Elimination System General Permit Number TXR150000 Part II, Section F and Part IV, Section B, by failing to maintain authorization to discharge stormwater associated with construction activities; PENALTY: $32,055; ENFORCEMENT COORDINATOR: Nancy Sims, (512) 239-5053; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(13) COMPANY: Deer Trail Water District, LLC; DOCKET NUMBER: 2023-1616-MWD-E; IDENTIFIER: RN110831773; LOCATION: Conroe, Montgomery County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125 (1) TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0015815001, Interm I Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with the permitted effluent limitations; PENALTY: $7,125; ENFORCEMENT COORDINATOR: Madison Stringer, (512) 239-1126; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(14) COMPANY: Diamondback E&P LLC; DOCKET NUMBER: 2023-0766-AIR-E; IDENTIFIER: RN110971595; LOCATION: Tarzan, Andrews County; TYPE OF FACILITY: oil and gas production facility; RULES VIOLATED: 30 TAC §101.201(a)(1)(B) and Texas Health and Safety Code (THSC), §382.085(b), by failing to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event; 30 TAC §101.201(c) and THSC, §382.085(b), by failing to submit a final record for a reportable emissions event no later than two weeks after the end of the emissions event; and 30 TAC §106.6(b), Permit by Rule Registration Number 160176, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: $36,567; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: $14,627; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(15) COMPANY: Dunadan Properties, LLC; DOCKET NUMBER: 2022-1100-PWS-E; IDENTIFIER: RN105596902; LOCATION: Weatherford, Parker County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(1)(F), by failing to obtain a sanitary control easement that covers the land within 150 feet of the facility's Well Numbers 1, 2, and 3; 30 TAC §290.42(b)(1) and (e)(3), by failing to provide continuous and effective disinfection that can be secured under all conditions; 30 TAC §290.42(l), by failing to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference; 30 TAC §290.45(b)(1)(E)(ii) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide a pressure tank capacity of 50 gallons per connection with a maximum of 2,500 gallons required; 30 TAC §290.46(e)(4)(A) and THSC, §341.033(a), by failing to operate the facility under the direct supervision of a water works operator who holds a minimum of a Class D or higher groundwater license; 30 TAC §290.46(i), by failing to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted; 30 TAC §290.46(n)(1), by failing to develop and maintain at the public water system accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank until the facility is decommissioned; 30 TAC §290.46(n)(2), by failing to make available an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies; 30 TAC §290.46(m)(1)(B), by failing to inspect the facility's ten pressure tanks annually; 30 TAC §290.46(n)(3), by failing to keep on file copies of well completion data as defined in 30 TAC §290.41(c)(3)(A) for as long as the well remains in service; 30 TAC §290.46(s)(1), by failing to calibrate the facility's three well meters at least once every three years; and 30 TAC §290.121(a) and (b), by failing to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements; PENALTY: $16,203; ENFORCEMENT COORDINATOR: Taner Hengst, (512) 239-1143; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(16) COMPANY: Elida Rodriguez; DOCKET NUMBER: 2022-0556-PST-E; IDENTIFIER: RN102047313; LOCATION: Crosbyton, Crosby County; TYPE OF FACILITY: temporarily out-of-service; RULES VIOLATED: 30 TAC §334.7(d)(1)(A) and (3), by failing to provide an amended registration for any change or additional information to the agency regarding the underground storage tanks (USTs) within 30 days from the date of the occurrence of the change or addition; 30 TAC §334.49(a)(2) and (c)(2)(C) and (4)(C), and §334.54(b)(3) and TWC, §26.3475(d), by failing to ensure the UST system corrosion protection system is operated and maintained in a manner that will provide continuous corrosion protection, and failing to inspect the impressed current corrosion protection system at least once every 60 days to ensure the rectifier and other system components are operating properly, additionally, failing to inspect and test the corrosion protection system for operability and adequacy of protection at a frequency of at least once every three years; and 30 TAC §334.602(a), by failing to designate, train, and certify at least one named individual for each class of operator, Class A, Class B, and Class C, for the facility; PENALTY: $7,402; ENFORCEMENT COORDINATOR: Eunice Adegelu, (512) 239-5082; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(17) COMPANY: FARMERS CO-OP; DOCKET NUMBER: 2022-0379-AIR-E; IDENTIFIER: RN101957694; LOCATION: East Bernard, Wharton County; TYPE OF FACILITY: cotton gin; RULES VIOLATED: 30 TAC §116.115(b)(2)(G) and Texas Health and Safety Code (THSC), §382.085(b), by failing to maintain all air pollution emission capture and abatement equipment in good working order and operating properly during normal facility operations; and 30 TAC §116.115(c), New Source Review Permit Number 32559, Special Conditions Number 6, and THSC, §382.085(b), by failing to clean up any accumulations of lint, cotton trash, and/or cotton burrs on the gin property and remove the lint, cotton trash, and/or cotton burrs from the

gin property on a daily basis; PENALTY: $11,250; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(18) COMPANY: Freeport LNG Development, L.P.; DOCKET NUMBER: 2023-1670-AIR-E; IDENTIFIER: RN103196689; LOCATION: Quintana, Brazoria County; TYPE OF FACILITY: liquified natural gas regasification terminal; RULES VIOLATED: 30 TAC §116.115(c) and §122.143(4), New Source Review Permit Numbers 55464 and 100114, Special Conditions Number 1, Federal Operating Permit Number O2878, General Terms and Conditions and Special Terms and Conditions Number 13, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: $330,750; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(19) COMPANY: GREENVILLE AUTOMATIC GAS COMPANY dba Commerce Automatic Gas; DOCKET NUMBER: 2023-1414-PST-E; IDENTIFIER: RN101752715; LOCATION: Commerce, Hunt County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks in a manner which will detect a release at a frequency of at least once every 30 days; 30 TAC §334.72, by failing to report a suspected release to the TCEQ within 24 hours of discovery; and 30 TAC §334.74, by failing to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 TAC §334.72 within 30 days; PENALTY: $12,026; ENFORCEMENT COORDINATOR: Celicia Garza, (210) 657-8422; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(20) COMPANY: HAWKINS FAMILY PARTNERS, L.P. and Hawkins and Mayo, LLC; DOCKET NUMBER: 2024-0644-MLM-E; IDENTIFIER: RN111877379; LOCATION: Uvalde, Uvalde County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §213.4(a)(1), by failing to obtain approval of an Edwards Aquifer Protection Plan prior to commencing regulated activity over the Edwards Aquifer Recharge Zone; and 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge stormwater associated with construction activities; PENALTY: $57,500; ENFORCEMENT COORDINATOR: Megan Crinklaw, (512) 239-1129; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(21) COMPANY: Isaac T. Arellano; DOCKET NUMBER: 2022-1609-PST-E; IDENTIFIER: RN102647229; LOCATION: Slaton, Lubbock County; TYPE OF FACILITY: temporarily out-of-service; RULES VIOLATED: 30 TAC §37.815(a) and (b) and §334.54(b)(1), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks, and failing to assure that the vent lines are kept open and functioning; PENALTY: $3,659; ENFORCEMENT COORDINATOR: Faye Renfro, (512) 239-1833; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(22) COMPANY: K&L Enterprises, Incorporated; DOCKET NUMBER: 2023-0366-PST-E; IDENTIFIER: RN102342151; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: out-of-service convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks; PENALTY: $2,936; ENFORCEMENT COORDINATOR: Adriana Fuentes, (956) 430-6057; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(23) COMPANY: Kinder Morgan Tejas Pipeline LLC; DOCKET NUMBER: 2022-0632-AIR-E; IDENTIFIER: RN104198379; LOCATION: Galveston, Galveston County; TYPE OF FACILITY: natural gas pipeline; RULES VIOLATED: Texas Health and Safety Code (THSC), §382.085(a) and (b), by failing to prevent unauthorized emissions; and 30 TAC §101.201(a)(1)(B) and THSC, §382.085(b), by failing to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event; PENALTY: $47,063; ENFORCEMENT COORDINATOR: Mackenzie Mehlmann, (512) 239-2572; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(24) COMPANY: Langham Creek Utility District; DOCKET NUMBER: 2024-0081-MWD-E; IDENTIFIER: RN103015178; LOCATION: Houston, Harris County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.121(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0011682001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: $13,050; ENFORCEMENT COORDINATOR: Taylor Williamson, (512) 239-2097; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(25) COMPANY: Lyondell Chemical Company; DOCKET NUMBER: 2021-0188-AIR-E; IDENTIFIER: RN100633650; LOCATION: Channelview, Harris County; TYPE OF FACILITY: petrochemical plant; RULES VIOLATED: 30 TAC §§101.20(3), 111.111(a)(1)(B), 116.115(c) and 122.143(4), New Source Review (NSR) Permit Numbers 2993, 19613, N234, and PSDTX1480, Special Conditions (SC) Number 1, Federal Operating Permit (FOP) Numbers 4121, N282 and O1387, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Numbers 25 and 28, and Texas Health and Safety Code (THSC), §382.085(b), by failing to prevent unauthorized emissions; 30 TAC §101.201(b)(1)(D), (G), and (H) and §122.143(4), FOP Number O1387, GTC and STC Number 2.F., and THSC, §382.085(b), by failing to identify all required information on the final record for a reportable emissions event; 30 TAC §101.201(b)(1)(H) and §122.143(4), FOP Number O1387, GTC and STC Number 2.F., and THSC, §382.085(b), by failing to identify all required information on the final record for a reportable emissions event; 30 TAC §101.201(f) and §122.143(4), FOP Number O1387, GTC and STC Number 2.F., and THSC, §382.085(b), by failing to provide additional or more detailed information regarding the emissions event when requested by the Executive Director within the time established in the request; and 30 TAC §§111.111(a)(1)(B), 115.722(c)(1), 116.115(c), and 122.143(4), NSR Permit Number 19613, SC Number 1, FOP Number O1387, GTC and STC Number 28, and THSC, §382.085(b), by failing to prevent unauthorized emissions and failing to limit highly reactive volatile organic compounds emissions to 1,200 lbs or less per one-hour block period; PENALTY: $74,366; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: $33,751; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(26) COMPANY: Maple Energy Holdings, LLC; DOCKET NUMBER: 2022-1573-AIR-E; IDENTIFIER: RN110682085; LOCATION: Pecos, Reeves County; TYPE OF FACILITY: sour natural gas and condensate/crude oil production facility; RULES VIOLATED: 30 TAC §106.4(c), Permit by Rule Registration Number 161829, and Texas Health and Safety Code (THSC), §382.085(b), by failing to maintain all emissions control equipment in good condition and

operated properly during operation of the facility; and 30 TAC §116.110(a) and THSC, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to the construction or modification of a source of air contaminants; PENALTY: $7,752; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(27) COMPANY: Miramar Brands Incorporated dba 7 Eleven 35401; DOCKET NUMBER: 2023-1773-PST-E; IDENTIFIER: RN102658937; LOCATION: Keller, Tarrant County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases in a manner which will detect a release at a frequency of at least once every 30 days; 30 TAC §334.72, by failing to report a suspected release to the TCEQ within 24 hours of discovery; and 30 TAC §334.74(1), by failing to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 TAC §334.72 by conducting a system test within 30 days; PENALTY: $10,051; ENFORCEMENT COORDINATOR: Celicia Garza, (210) 657-8422; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(28) COMPANY: MOSCOW WATER SUPPLY CORPORATION; DOCKET NUMBER: 2022-1295-PWS-E; IDENTIFIER: RN101652576; LOCATION: Moscow, Polk County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(1)(F), by failing to obtain a sanitary control easement that covers the land within 150 feet of the facility's Well Numbers 1 and 2; 30 TAC §290.44(h)(1)(A), by failing to ensure additional protection was provided at all residences or establishments where an actual or potential contamination hazard exists in the form of an air gap or a backflow prevention assembly, as identified in 30 TAC §290.47(f); and 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment; PENALTY: $1,824; ENFORCEMENT COORDINATOR: Rachel Vulk, (512) 239-6730; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(29) COMPANY: Nerro Supply Investors, LLC; DOCKET NUMBER: 2022-1016-PWS-E; IDENTIFIER: RN101246353; LOCATION: Conroe, Montgomery County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.45(b)(1)(C)(i) and Texas Health and Safety Code (THSC) §341.0315(c), by failing to provide a well capacity of 0.6 gallons per minute per connection; 30 TAC §290.46(f)(3)(A)(i) and (ii)(II), by failing to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request; and 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment; PENALTY: $2,550; ENFORCEMENT COORDINATOR: Ronica Rodriguez Scott, (361) 881-6990; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, (361) 881-6900.

(30) COMPANY: North Texas Natural Select Materials, LLC; DOCKET NUMBER: 2022-0198-AIR-E; IDENTIFIER: RN111283131; LOCATION: Pilot Point, Denton County; TYPE OF FACILITY: dirt and sand mining and processing site; RULES VIOLATED: 30 TAC §101.4 and Texas Health and Safety Code (THSC), §382.085(a) and (b), by failing to prevent nuisance conditions; and 30 TAC §116.110(a) and THSC, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; PENALTY: $6,238; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(31) COMPANY: Republic Plastics, LTD.; DOCKET NUMBER: 2023-1082-AIR-E; IDENTIFIER: RN100851211; LOCATION: McQueeney, Guadalupe County; TYPE OF FACILITY: polystyrene foam manufacturing plant; RULES VIOLATED: 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), New Source Review Permit Number 40212, Special Conditions Number 1, Federal Operating Permit Number O2680, General Terms and Conditions and Special Terms and Conditions Number 4, and Texas Health and Safety Code, §382.085(b), by failing to comply with the maximum allowable emissions rate; PENALTY: $31,500; ENFORCEMENT COORDINATOR: Matthew Perez, (325) 659-6707; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(32) COMPANY: Scout Energy Management LLC; DOCKET NUMBER: 2022-1636-AIR-E; IDENTIFIER: RN107100182; LOCATION: Goldsmith, Ector County; TYPE OF FACILITY: sour oil and gas tank battery; RULES VIOLATED: 30 TAC §106.352(e)(1), Permit by Rule Registration Number 116922, and Texas Health and Safety Code, §382.085(b), by failing to maintain all facilities which have the potential to emit air contaminants in good working order and operated properly during facility operations; PENALTY: $3,000; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(33) COMPANY: Texas Concrete Sand and Gravel, Incorporated; DOCKET NUMBER: 2023-0360-WQ-E; IDENTIFIER: RN108298225; LOCATION: Cleveland, Liberty County; TYPE OF FACILITY: sand and gravel mining operation; RULES VIOLATED: TWC, §26.121(a)(2), by failing to prevent the unauthorized discharge of process water into or adjacent to any water in the state; and 30 TAC §311.103(h)(1), by failing to develop a written Mine Plan; PENALTY: $11,738; ENFORCEMENT COORDINATOR: Megan Crinklaw, (512) 239-1129; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(34) COMPANY: Texas Department of Criminal Justice; DOCKET NUMBER: 2023-1542-MWD-E; IDENTIFIER: RN102315199; LOCATION: Huntsville, Walker County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0011180001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: $12,375; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: $9,900; ENFORCEMENT COORDINATOR: Taylor Williamson, (512) 239-2097; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(35) COMPANY: Tokai Carbon CB Ltd.; DOCKET NUMBER: 2022-1476-AIR-E; IDENTIFIER: RN100222413; LOCATION: Borger, Hutchinson County; TYPE OF FACILITY: carbon black manufacturing plant; RULES VIOLATED: 30 TAC §§101.20(3), 111.111(a)(1)(C) and (8)(A), 116.115(c), 116.615(2), and 122.143(4), New Source Review (NSR) Permit Numbers 1867A and PSDTX1032M1, Special Conditions (SC) Number 2, Standard Permit Registration Number 157178, Federal Operating Permit (FOP) Number O1414, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 6, and Texas Health and Safety Code (THSC), §382.085(b), by failing to prevent an excess opacity event; 30 TAC §§101.20(3), 111.111(a)(1)(C), 116.115(c), and 122.143(4), NSR Permit Numbers 1867A and PSDTX1032M1, SC Number 2, FOP Number O1414, GTC and STC Number 6, and THSC, §382.085(b),

by failing to comply with the opacity limit; 30 TAC §§101.20(3), 116.110(a), 116.115(c), 116.116(a)(1), and 122.143(4), NSR Permit Numbers 1867A and PSDTX1032M1, SC Number 1, FOP Number O1414, GTC and STC Number 6, and THSC, §382.0518(a) and §382.085(b), by failing to comply with the representations with regards to construction plans and operation procedures in a permit application and failing to obtain authorization before constructing a new facility or modifying an existing facility which may emit air contaminants into the air; 30 TAC §§101.20(3), 116.115(c), and 122.143(4), NSR Permit Numbers 1867A and PSDTX1032M1, SC Numbers 1.A. and 2, FOP Number O1414, GTC and STC Number 6, and THSC, §382.085(b), by failing to prevent unauthorized emissions; 30 TAC §§101.20(3), 116.115(c), and 122.143(4), NSR Permit Numbers 1867A and PSDTX1032M1, SC Number 17.H., FOP Number O1414, GTC and STC Number 6, and THSC, §382.085(b), by failing to maintain records of visible emissions observations; 30 TAC §101.201(a)(1)(B) and §122.143(4), FOP Number O1414, GTC and STC Number 2.F., and THSC, §382.085(b), by failing to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event; 30 TAC §101.201(b)(1)(D), (F) - (H) and §122.143(4), FOP Number O1414, GTC and STC Number 2.F., and THSC, §382.085(b), by failing to identify all required information on the final record for a reportable emissions event; and 30 TAC §101.201(e) and §122.143(4), FOP Number O1414, GTC and STC Number 2.F., and THSC, §382.085(b), by failing to submit an initial notification no later than 24 hours after the discovery of an excess opacity event; PENALTY: $275,028; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: $110,011; ENFORCEMENT COORDINATOR: Amanda Diaz, (713) 422-8912; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(36) COMPANY: Trang Huynh; DOCKET NUMBER: 2023-1025-PST-E; IDENTIFIER: RN102719689; LOCATION: Amarillo, Moore County; TYPE OF FACILITY: temporarily-out-of-service; RULE VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks; PENALTY: $4,468; ENFORCEMENT COORDINATOR: Celicia Garza, (210) 657-8422; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(37) COMPANY: Tri-Speed Investment Incorporated; DOCKET NUMBER: 2022-0953-PST-E; IDENTIFIER: RN101671733; LOCATION: Elm Mott, Mclennan County; TYPE OF FACILITY: out-of-service gas station; RULES VIOLATED: 30 TAC §334.7(d)(1)(B) and (3), by failing to provide an amended registration for any change or additional information to the agency regarding the underground storage tank (UST) system within 30 days from the date of the occurrence of the change or addition; 30 TAC §§37.815(a) and (b) and 334.49(c)(4)(C) and (2)(C) and 334.54(b)(3), and TWC, §26.3475(d), by failing to inspect and test the corrosion protection system for operability and adequacy of protection at a frequency of at least once every three years; and 30 TAC §334.606, by failing to maintain required operator training certification on-site and make it available for inspection upon request by agency personnel; PENALTY: $10,458; ENFORCEMENT COORDINATOR: Eunice Adegelu, (512) 239-5082; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(38) COMPANY: Verdun Oil and Gas LLC; DOCKET NUMBER: 2023-0096-IHW-E; IDENTIFIER: RN111325437; LOCATION: Falls City, Karnes County; TYPE OF FACILITY: drilling lease; RULES VIOLATED: 30 TAC §325.3(a)(3), 40 Code of Federal Regulations §370.33(a), and Texas Health and Safety Code, §506.006(d), by failing to submit an initial report and pay the appropriate filing fee within 90 days; PENALTY: $1,000; ENFORCEMENT COORDINATOR: Stephanie McCurley, (512) 239-2607; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(39) COMPANY: VK and DENCY 2 CORPORATION dba Cracker Barrel 6; DOCKET NUMBER: 2023-0281-PST-E; IDENTIFIER: RN102227501; LOCATION: Victoria, Victoria County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.7(d)(1)(A) and (3) and §334.8(c)(5)(B)(ii), by failing to renew a previously issued underground storage tank (UST) delivery certificate by submitting a properly completed UST registration and self-certification form to the agency, and failing to provide an amended registration for any change or additional information to the agency regarding the USTs within 30 days from the date of the occurrence of the change or addition; and 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days; PENALTY: $5,000; ENFORCEMENT COORDINATOR: Tiffany Chu, (817) 588-5891; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(40) COMPANY: Wes Campbell; DOCKET NUMBER: 2023-0233-PST-E; IDENTIFIER: RN102789062; LOCATION: Dougherty, Floyd County; TYPE OF FACILITY: gas station; RULES VIOLATED: 30 TAC §§37.815(a) and (b) and 334.50(b)(1)(A) and 334.54(c)(1), and TWC, §26.3475(c)(1), by failing to monitor a temporarily out-of-service underground storage tank (UST) system in a manner which will detect a release at a frequency of at least once every 30 days, and failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs; PENALTY: $4,712; ENFORCEMENT COORDINATOR: Amy Lane, (512) 239-2614; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

TRD-202402901
Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: July 1, 2024

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Notice of a Public Meeting Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 174578

APPLICATION. Gonzalez Brothers Batch Plant, LP, has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit, Registration No. 174578, which would authorize construction of a permanent concrete batch plant located using the following driving directions, from the intersection of Hodgins Road and Central Expressway Service Road, travel South for approximately 0.2 miles to find the site entrance on the right, in Van Alstyne, Grayson County, Texas 75495. This application is being processed in an expedited manner, as allowed by the commission's rules in 30 Texas Administrative Code, Chapter 101, Subchapter J. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. https://gisweb.tceq.texas.gov/LocationMapper/?marker=-96.604487,33.447852&level=13. The proposed facility will emit the following air contaminants: particulate matter including (but not limited to) aggregate, cement, road dust, and particulate matter with diameters of 10 microns or less and 2.5 microns or less.

This application was submitted to the TCEQ on November 9, 2023. The executive director has completed the administrative and technical reviews of the application and determined that the application meets all of the requirements of a standard permit authorized by 30 TAC §116.611, which would establish the conditions under which the plant must operate. The executive director has made a preliminary decision to issue the registration because it meets all applicable rules.

PUBLIC COMMENT/PUBLIC MEETING. You may submit public comments to the Office of the Chief Clerk at the address below. The TCEQ will consider all public comments in developing a final decision on the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application, and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. At the conclusion of the comment period, all formal comments will be considered before a decision is reached on the permit application. A written response to all formal comments will be prepared by the executive director and will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Tuesday, August 6, 2024 at 7:00 p.m.

Kidd-Key Auditorium

400 Elm Street

Sherman, Texas 75090

INFORMATION. Members of the public are encouraged to submit written comments anytime during the public meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at https://www14.tceq.texas.gov/epic/eComment/. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, toll free, at (800) 687-4040. General information can be found at our Website at www.tceq.texas.gov. *Si desea información en español, puede llamar al (800) 687-4040.*

INFORMATION AVAILABLE ONLINE. For details about the status of the application, visit the Commissioners' Integrated Database (CID) at www.tceq.texas.gov/goto/cid. Once you have access to the CID using the link, enter the permit number at the top of this form.

The application, executive director's preliminary decision, and standard permit will be available for viewing and copying at the TCEQ central office, the TCEQ Dallas/Fort Worth regional office, and at Van Alstyne Public Library, 151 West Cooper Street, Van Alstyne, Grayson County, Texas 75495. The facility's compliance file, if any exists, is available for public review at the TCEQ Dallas/Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas. Visit www.tceq.texas.gov/goto/cbp to review the standard permit. Further information may also be obtained from Gonzalez Brothers Batch Plant, LP, P.O. Box 29955, Dallas, Texas 75229-0955 or by calling Ms. Deissy De La Rosa, Administrative Assistant at (214) 991-2130.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) -RELAY-TX (TDD) at least five business days prior to the meeting.

Notice Issuance Date: July 01, 2024

TRD-202402915
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: July 1, 2024

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Notice of District Petition

Notice issued June 27, 2024

TCEQ Internal Control No. D-04092024-029: M&RBFF, LLC, a Texas limited liability company (Petitioner) filed a petition for the creation of Williamson County Municipal Utility District No. 41 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 and Article III, §52 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there is no lienholder on the property (3) the proposed District will contain approximately 198.733 acres of land, more or less, located entirely within Williamson County, Texas; (4) no portion of land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city, town or village in Texas. According to the petition, Hillwood Enterprises, L.P., a Texas limited partnership, has entered into an earnest money contract to purchase all of the land to be included in the district. The petition states that Hillwood Enterprises desires to be considered as a Petitioner for the consent to creation of the District. The petition further states that the proposed District will (1) purchase, construct, acquire, improve, or extend inside or outside of its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic, and commercial purposes; (2) to collect, transport, process, dispose of and control domestic, and commercial wastes; (3) to gather, conduct, divert, abate, amend and control local stormwater or other local harmful excesses of water in the District; and (4) to purchase, construct, acquire, improve, or extend inside or outside or its boundaries such additional facilities, systems, plants and enterprises, road facilities, and park and recreational facilities, as shall be consonant with the purposes for which the District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners, from the information available at this time, that the cost of said project will be approximately $62,455,000 ($41,675,000 for water, wastewater, and drainage facilities, $1,940,000 for recreational and $18,840,000 for road facilities).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202402913
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: July 1, 2024

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Notice of District Petition

Notice issued June 28, 2024

TCEQ Internal Control No. D-04262024-079 Sigman Grafted, LLC (Petitioner) filed a petition for the creation of Martindale Municipal Utility District No. 1 of Caldwell County (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 and Article III, §52 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there is no lienholder on the property; (3) the proposed District will contain approximately 600 acres of land, more or less, located wholly within Caldwell County, Texas; (4) a portion of the land to be included in the District is within the extraterritorial jurisdiction (ETJ) of the City of Martindale (City); and (5) a petition was submitted to the City for removal of a portion of the land from the ETJ of the City in accordance with §42.102 of the Texas Local Government Code. The petition further states: the general nature of the work proposed to be done by the District at the present time is to purchase, construct, acquire, provide, operate, maintain, repair, improve, or extend inside or outside of its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic, industrial, or commercial purposes or provide adequate drainage for the District; to collect, transport, process, dispose of and control domestic, industrial, or commercial wastes; to gather, conduct, divert, abate, amend, and control local storm water or other local harmful excesses of water in the District; and to purchase, construct, acquire, provide, operate, maintain, repair, improve, or extend inside or outside of its boundaries such additional facilities, systems, plants, and enterprises as shall be consonant with the purposes for which the District is created, all as more particularly described in an engineer's report filed simultaneously with the filing of this Petition, to which reference is made for a more detailed description. Additional work and services which may be performed by the District include the purchase, construction, acquisition, provision, operation, maintenance, repair, improvement, extension and development of a roadway system for the District. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner, from the information available at this time, that the cost of said project will be approximately $120,081,360 ($74,726,436 for water, wastewater, and drainage facilities and $45,354,924 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202402914
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: July 1, 2024

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Notice of Public Meeting for an Air Quality Standard Permit for Permanent Rock and Concrete Crushers Proposed Air Quality Registration Number 175198

APPLICATION. North Texas Natural Select Materials LLC, 6500 Meyer Way, Suite 110, McKinney, Texas 75070-1997 has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit, Registration Number 175198, which would authorize construction of a permanent rock and concrete crusher. The facility is proposed to be located at the following directions: from the intersection of Cleve Cole Road and Fannin Avenue, travel 0.42 mi north along Fannin Avenue, and the site entrance will be to the west, Denison, Grayson County, Texas 75021. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. https://gisweb.tceq.texas.gov/LocationMapper/?marker=-96.549847,33.699269&level=13. This application was submitted to the TCEQ on January 29, 2024. The executive director has determined the application was technically complete on March 22, 2024.

PUBLIC COMMENT/PUBLIC MEETING. You may submit public comments to the Office of the Chief Clerk at the address below. The TCEQ will consider all public comments in developing a final decision on the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application, and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. At the conclusion of the comment period, all formal comments will be considered before a decision is reached on the permit application. A written response to all formal comments will be prepared by the executive director and will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address.

The Public Meeting is to be held:

Thursday, August 1, 2024 at 7:00 p.m.

Kidd-Key Auditorium

400 N. Elm Street

Sherman, Texas 75090

INFORMATION. Members of the public are encouraged to submit written comments anytime during the public meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at https://www14.tceq.texas.gov/epic/eComment/. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, toll free, at (800) 687-4040. General information can be found at our Website at www.tceq.texas.gov. *Si desea información en español, puede llamar al (800) 687-4040.*

INFORMATION AVAILABLE ONLINE. For details about the status of the application, visit the Commissioners' Integrated Database (CID) at www.tceq.texas.gov/goto/cid. Once you have access to the CID using the link, enter the permit number at the top of this form.

The executive director shall approve or deny the application not later than 30 days after the end of the public comment period, considering all comments received within the comment period, and base this decision on whether the application meets the requirements of the standard permit.

CENTRAL/REGIONAL OFFICE. The application will be available for viewing and copying at the TCEQ Central Office and the TCEQ Dallas/Fort Worth Regional Office, located at 2309 Gravel Dr, Fort Worth, Texas 76118-6951, during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.

Further information may also be obtained from North Texas Natural Select Materials LLC, 6500 Meyer Way, Suite 110, McKinney, Texas 75070-1997, or by calling Mrs. Melissa Fitts, Senior Vice President, Westward Environmental, Inc. at (830) 249-8284.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least five business days prior to the meeting.

Notice Issuance Date: June 27, 2024

TRD-202402916
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: July 1, 2024

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Notice of Public Meeting for an Application to Obtain a Class III Injection Well Area Permit Renewal Permit No. UR3075

APPLICATION. Uranium Energy Corp., 500 North Shoreline Boulevard, Suite 800 N, Corpus Christi, Texas, an in-situ uranium mining business, has applied to the Texas Commission on Environmental Quality (TCEQ) for a permit renewal to authorize in-situ uranium mining. The facility is located at 14869 North United States Highway 183, Yorktown, Texas 78164 in Goliad County, Texas. TCEQ received the application on December 22, 2020. The following link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice (for exact location, refer to application):

https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=db5bac44afbc468bbddd360f8168250f&marker=-97.356944%2C28.865555&level=12.

ADDITIONAL NOTICE. TCEQ's Executive Director has determined the application is administratively complete and will conduct a technical review of the application. After technical review of the application is complete, the Executive Director may prepare a draft permit and will issue a preliminary decision on the application. **Notice of the Application and Preliminary Decision will be published and mailed to those who are on the county-wide mailing list and to those who are on the mailing list for this application. That notice will contain the deadline for submitting public comments.**

PUBLIC COMMENT / PUBLIC MEETING. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official

record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Monday, August 5, 2024 at 7:00 p.m.

Goliad Memorial Auditorium

925 S. US HWY 183

Goliad, Texas 77963

INFORMATION. Members of the public are encouraged to submit written comments anytime during the meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at www.tceq.texas.gov/goto/comment. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040. *Si desea información en español, puede llamar (800) 687-4040.* General information about the TCEQ can be found at our web site at https://www.tceq.texas.gov.

The permit application is available for viewing and copying at Goliad Public Library, 320 South Commercial, Goliad, Texas 77963. Further information may also be obtained from Uranium Energy Corp. at the address stated above or by calling Craig Wall at (361) 888-8235.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least five business days prior to the meeting.

Issued: June 27, 2024

TRD-202402918
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: July 1, 2024

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Notice of Water Quality Application

The following notices were issued on June 28, 2024:

The following notice does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin Texas 78711-3087 WITHIN (30) DAYS FROM THE DATE THIS NOTICE IS PUBLISHED IN THE *TEXAS REGISTER.*

INFORMATION SECTION

Yoakum Packing Co., which operates Yoakum Packing, a meat and chicken processing facility, has applied for a minor amendment without renewal to TCEQ Permit No. WQ0005426000 to amend the sampling location from "taken after the grease trap at the facility (500 Front Street), prior to leaving the facility in 3-inch PVC pipe routed to the evaporation ponds" to "samples being taken at the clean out right before the grease trap at the facility (500 Front Street) and prior to leaving facility in 3-inch PVC pipe routed to evaporation ponds". The draft permit authorizes the disposal of process wastewater, utility wastewater, and wash water at a daily average flow not to exceed 3,280 gallons per day (gpd) via evaporation. This permit will not authorize a discharge of pollutants into water in the state. The facility is located at 500 Front Street, in the City of Yoakum, De Witt County, Texas 77995. The evaporation ponds are located approximately 0.25 mile south of the intersection of Elwood Street and Fischer Street, in the City of Yoakum, De Witt County, Texas 77995.

The following notice does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin Texas 78711-3087 WITHIN (30) DAYS FROM THE DATE THIS NOTICE IS ISSUED.

INFORMATION SECTION

River Ranch Municipal Utility District No. 1 has applied for a minor amendment to the Texas Pollutant Discharge Elimination System Permit No. WQ0015597001 to authorize the addition of an Interim phase with a daily average flow not to exceed 600,000 gallons per day. The existing permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 900,000 gallons per day. The facility is located approximately 5.7 miles south of the intersection of Farm-to-Market Road 146 and U.S. Highway 90, in Liberty County, Texas 77535.

TRD-202402912
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: July 1, 2024

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Request for Nominations for Appointment to Serve on the Irrigator Advisory Council

The Texas Commission on Environmental Quality (TCEQ) is requesting nominations for three individuals to serve on the Irrigator Advisory Council (council). Two of the individuals must be irrigators who are licensed to work in Texas, and one individual must represent the public. To be eligible to be a "public member," the person or person's spouse may not be licensed by an occupational regulatory agency in the field of irrigation. The person or the person's spouse may not be employed by, participate in the management of, or have, other than as a consumer, a financial interest in a business entity or other organization related to the field of irrigation. Council members will be asked to serve a six-year term beginning in 2025.

The Texas Occupations Code, Chapter 1903, Subchapter D (see also 30 Texas Administrative Code §344.80) provides the structure of the nine-member council appointed by the TCEQ. The council is comprised of nine members appointed by the TCEQ: six licensed irrigators, who are residents of Texas, experienced in the irrigation business, and familiar with irrigation methods and techniques; and three public members.

The council provides advice to the TCEQ and TCEQ Staff concerning matters that relate to irrigation. It is grounds for removal from the council when a council member misses three consecutive regularly scheduled meetings or more than half of all the regularly scheduled meetings in a one-year period. The council members generally meet for one day in Austin or virtually via Teams in the months of February, May, August, and November of each year. Council members are not paid for their services but are eligible for reimbursement of travel expenses at state rates as appropriated by the legislature.

To nominate an individual: 1) ensure that the individual is qualified for the position for which he/she is being considered; 2) submit a brief résumé which includes relevant work experience; and 3) provide the

nominee a copy of the nomination. The nominee must submit a letter indicating his/her agreement to serve, if appointed. A person may nominate themselves by: 1) ensuring that he/she is qualified for the position; 2) submitting a brief résumé which includes relevant work experience; and 3) submitting a letter indicating his/her agreement to serve, if appointed.

Written nominations and letters from nominees must be received by **5:00 p.m. on August 16, 2024**. The appointments will be considered by the TCEQ at a future Commission agenda meeting. Please mail all correspondence to the TCEQ Landscape Irrigation Program, Texas Commission on Environmental Quality, Program Support and Environmental Assistance Division, MC-235, P.O. Box 13087, Austin, Texas 78711-3087, by E-mail to install@tceq.texas.gov, or fax to (512) 239-2249. Questions regarding the council may be directed to the Technical Programs Team Leader at (512) 839-3399 or by E-mail: install@tceq.texas.gov. Additional information regarding the council is available on the website: *https://www.tceq.texas.gov/drinkingwater/irrigation/irr_advisory.html*

TRD-202402906
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: July 1, 2024

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General Land Office

Notice of Public Hearing and Extension of Comment Period

Public hearing to receive comments from interested persons concerning the amended rule proposed under Texas Natural Resources Code §§33.602, 33.607, 61.011, 61.015(b), 61.022 (b) & (c), 63.091, and 63.121, which provides the General Land Office with the authority to promulgate and adopt rules consistent with the Act governing its administration, including a rule relating to the Certification Status of the City of Galveston Dune Protection and Beach Access Plan, will be held on July 16, 2024, at a time indicated on the City of Galveston's website, at 823 Rosenberg, 2nd Floor, Galveston, Texas. The proposed amended rule, 31 TAC §15.36, was published in the June 7, 2024 issue of the *Texas Register.* Any interested person may appear and offer comments or statements, either orally or in writing; however, questioning of commenters will be reserved exclusively to the General Land Office and the City of Galveston, or their staff, as may be necessary to ensure a complete record. While any person with pertinent comments or statements will be granted an opportunity to present them during the course of the hearing, the General Land Office reserves the right to restrict statements in terms of time or repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views or similar comments through a representative member when possible. Persons with disabilities who have special needs and who plan to attend the meeting should contact Mr. Walter Talley, Texas Register Liaison, Texas General Land Office, at walter.talley@glo.texas.gov. The public comment period for the proposed amendment of 31 TAC §15.36 is extended until the conclusion of the public hearing.

TRD-202402899
Jennifer Jones
Chief Clerk
General Land Office
Filed: July 1, 2024

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Texas Health and Human Services Commission

Corrected Notice of Public Hearing on Proposed Updates to Medicaid Payment Rates

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on July 30, 2024, 9:00 a.m., to receive public comments on proposed Medicaid Payment Rates to School and Health Related Services (SHARS) reimbursement methodology.

This hearing will be conducted as an online event. To join the hearing from your computer, tablet, or smartphone, register for the hearing in advance using the following link:

Registration URL:

https://attendee.gotowebinar.com/register/3902433289070570846

After registering, you will receive a confirmation email containing information about joining the webinar. Instructions for dialing-in by phone will be provided after you register.

A recording of the hearing will be archived and accessible on demand at https://hhs.texas.gov/about-hhs/communications-events/live-archived-meetings under the "Archived" tab. The hearing will be held in compliance with Texas Human Resources Code section 32.0282, which requires public notice of and hearings on proposed Medicaid reimbursements.

Any updates to the hearing details will be posted on the HHSC website at https://www.hhs.texas.gov/about/meetings-events.

Proposal. The effective date of the proposed rate adjustments for the topics presented during the rate hearing will be as follows:

Effective October 1, 2024

SHARS Rate Methodology

-Remove UD group modifier for Personal Care Services (PCS) code T1019 in SHARS

-Replace the current Physician Services code (99499) with screening to determine the appropriateness of consideration of an individual for participation in a specified program, project, or treatment protocol, per encounter (T1023).

Methodology and Justification. The proposed payment rates were calculated in accordance with Title 1 of the Texas Administrative Code:

Section 355.8443, Reimbursement Methodology for School and Related Services (SHARS)

Rate Hearing Packet. A briefing packet describing the proposed payment rates will be made available at https://pfd.hhs.texas.gov/rate-packets no later than July 19, 2024. Interested parties may obtain a copy of the briefing packet on or after that date by contacting Provider Finance by telephone at (512) 730-7400; by fax at (512) 730-7475; or by e-mail at ProviderFinanceSHARS@hhs.texas.gov.

Written Comments. Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the Texas Health and Human Services Commission, Attention: Provider Finance, Mail Code H-400, P.O. Box 149030, Austin, Texas 78714-9030; by fax to Provider Finance at (512) 730-7475; or by e-mail to ProviderFinanceSHARS@hhs.texas.gov. In addition, written comments may be sent by overnight mail to Texas Health and Human Services Commission, Attention: Provider Finance, Mail Code H-400, North Austin Complex, 4601 Guadalupe St., Austin, Texas 78751.

Preferred Communication. For quickest response, please use e-mail or phone for communication with HHSC related to this rate hearing.

Persons with disabilities who wish to participate in the hearing and require auxiliary aids or services should contact Provider Finance at (512) 730-7400 at least 72 hours before the hearing so appropriate arrangements can be made.

TRD-202402905
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Filed: July 1, 2024

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Notice of Public Hearing on Proposed Updates to Medicaid Payment Rates

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on July 30, 2024, 9:00 a.m., to receive public comments on proposed Medicaid Payment Rates to School and Health Related Services (SHARS) reimbursement methodology.

This hearing will be conducted as an online event. To join the hearing from your computer, tablet, or smartphone, register for the hearing in advance using the following link:

Registration URL:

https://register.gotowebinar.com/register/7096212201757445209

After registering, you will receive a confirmation email containing information about joining the webinar. Instructions for dialing-in by phone will be provided after you register.

Members of the public may attend the rate hearing via live stream of the meeting at https://www.hhs.texas.gov/about/live-archived-meetings. For the live stream, select the "North Austin Complex Live" tab. A recording of the hearing will be archived and accessible on demand at the same website under the "Archived" tab. The hearing will be held in compliance with Texas Human Resources Code section 32.0282, which requires public notice of and hearings on proposed Medicaid reimbursements.

Any updates to the hearing details will be posted on the HHSC website at https://www.hhs.texas.gov/about/meetings-events.

Proposal. The effective date of the proposed rate adjustments for the topics presented during the rate hearing will be as follows:

Effective October 1, 2024

SHARS Rate Methodology

-Remove UD group modifier for Personal Care Services (PCS) code T1019 in SHARS

-Replace the current Physician Services code (99499) with screening to determine the appropriateness of consideration of an individual for participation in a specified program, project, or treatment protocol, per encounter (T1023).

Methodology and Justification. The proposed payment rates were calculated in accordance with Title 1 of the Texas Administrative Code:

Section 355.8443, Reimbursement Methodology for School and Related Services (SHARS)

Rate Hearing Packet. A briefing packet describing the proposed payment rates will be made available at https://pfd.hhs.texas.gov/rate-packets no later than July 19, 2024. Interested parties may obtain a copy of the briefing packet on or after that date by contacting Provider Finance by telephone at (512) 730-7400; by fax at (512) 730-7475; or by e-mail at ProviderFinanceSHARS@hhs.texas.gov.

Written Comments. Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the Texas Health and Human Services Commission, Attention: Provider Finance, Mail Code H-400, P.O. Box 149030, Austin, Texas 78714-9030; by fax to Provider Finance at (512) 730-7475; or by e-mail to ProviderFinanceSHARS@hhs.texas.gov. In addition, written comments may be sent by overnight mail to Texas Health and Human Services Commission, Attention: Provider Finance, Mail Code H-400, North Austin Complex, 4601 Guadalupe St, Austin, Texas 78751.

Preferred Communication. For quickest response, please use e-mail or phone for communication with HHSC related to this rate hearing.

Persons with disabilities who wish to participate in the hearing and require auxiliary aids or services should contact Provider Finance at (512) 730-7400 at least 72 hours before the hearing so appropriate arrangements can be made.

TRD-202402900
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Filed: July 1, 2024

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Texas Department of Housing and Community Affairs

Request for Qualifications for Peer Review - Internal Audit

The Texas Department of Housing and Community Affairs' (Department) Internal Audit Division provides an independent, objective appraisal of the Department's various functions, activities and systems of control. The purpose of the audit work is to determine whether management information is reliable, acceptable policies and procedures are being followed, whether established standards are met, whether resources are safeguarded and used efficiently and economically, if missions are accomplished effectively, and if the Department's objectives are achieved. The Internal Audit Division is independent of the Department's management and the Director of Internal Audit reports to the Chair of the governing Board's audit committee.

Posting date for RFQ: July 10, 2024

Questions Due: July 16, 2024 4:00 p.m. (CT)

Questions/Answers Posted July 18, 2024 (or as soon as possible)

Response Due: July 24, 2024 2:00 p.m. (CT)

RFQ 332-RFQ24-1009 is posted on https://www.txsmartbuy.com/esbd

Proposals shall be delivered to:

Texas Department of Housing and Community Affairs

Attention: Suzanne Saucedo

Mailing Address:

P.O. Box 13941

Austin, Texas 78711-3941

Physical Address for Overnight Carriers:

221 E. 11th Street

Austin, Texas 78701

For more information, please contact:

Suzanne Saucedo, Senior Purchaser

(512) 475-3998

suzanne.saucedo@tdhca.texas.gov

TRD-202402883
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Filed: June 28, 2024

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Texas Department of Insurance

Company Licensing

Application for incorporation in the state of Texas for Antidote Health Insurance Company of Texas, a domestic life, accident and/or health company. The home office is in Austin, Texas.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of John Carter, 1601 Congress Ave., Suite 6.900, Austin, Texas 78711.

TRD-202402804
Justin Beam
Chief Clerk
Texas Department of Insurance
Filed: June 26, 2024

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North Central Texas Council of Governments

Request for Proposals for Data Hub - Transportation Systems and Management and Operation (TSMO)

The North Central Texas Council of Governments (NCTCOG) is requesting written proposals from vendors to provide Installation and Integration of the FDOT-Owned Vehicle-to-Everything (V2X) Data Exchange Platform (DEP).

Proposals must be received no later than 5:00 p.m., Central Time, on **Friday, August 9, 2024,** to Natalie Bettger, Senior Program Manager, North Central Texas Council of Governments, 616 Six Flags Drive, Arlington, Texas 76011 and electronic submissions to TransRFPs@nctcog.org. The Request for Proposals will be available at www.nctcog.org/rfp by the close of business on **Friday, July 12, 2024.**

NCTCOG encourages participation by disadvantaged business enterprises and does not discriminate on the basis of age, race, color, religion, sex, national origin, or disability.

TRD-202402812
R. Michael Eastland
Executive Director
North Central Texas Council of Governments
Filed: June 26, 2024

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Request for Proposals for Environmental Economics Services for Integrating Transportation and Stormwater Infrastructure - North Study Area

The North Central Texas Council of Governments (NCTCOG) is requesting written proposals from qualified firms to demonstrate the financial feasibility and return-on-investment of integrating transportation, environmental, and stormwater infrastructure planning to increase flood risk awareness and resiliency.

Proposals must be received no later than 5:00 p.m., Central Time, on **Friday, August 9, 2024**, to Kate Zielke, Environment & Development Program Supervisor, North Central Texas Council of Governments, 616 Six Flags Drive, Arlington, Texas 76011 and electronic submissions to TransRFPs@nctcog.org. The Request for Proposals will be available at www.nctcog.org/rfp by the close of business on Friday, July 12, 2024.

NCTCOG encourages participation by disadvantaged business enterprises and does not discriminate on the basis of age, race, color, religion, sex, national origin, or disability.

TRD-202402904
Michael Eastland
Executive Director
North Central Texas Council of Governments
Filed: July 1, 2024

♦ ♦ ♦

Request for Proposals for Hydrologic & Hydraulic Services and Transportation Planning Services for Integrating Transportation and Stormwater Infrastructure - North Study Area

The North Central Texas Council of Governments (NCTCOG) is requesting written proposals from qualified firms to conduct hydrologic and hydraulic analyses and/or transportation planning to support integration of transportation, stormwater, and environmental infrastructure to increase flood risk awareness and resiliency.

Proposals must be received no later than 5:00 p.m., Central Time, on **Friday, August 9, 2024**, to Kate Zielke, Environment & Development Program Supervisor, North Central Texas Council of Governments, 616 Six Flags Drive, Arlington, Texas 76011 and electronic submissions to TransRFPs@nctcog.org. The Request for Proposals will be available at www.nctcog.org/rfp by the close of business on Friday, July 12, 2024.

NCTCOG encourages participation by disadvantaged business enterprises and does not discriminate on the basis of age, race, color, religion, sex, national origin, or disability.

TRD-202402903
Michael Eastland
Executive Director
North Central Texas Council of Governments
Filed: July 1, 2024

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Supreme Court of Texas

Final Approval of Amendments to the Texas Rules of Appellate Procedure Related to the Fifteenth Court of Appeals

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," this order is not included in the print version of the Texas Register. The order is available in the on-line version of the July 12, 2024, issue of the Texas Register.)

TRD-202402896
Jaclyn Daumerie
Rules Attorney
Supreme Court of Texas
Filed: June 28, 2024

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Final Approval of Rules for the Business Court

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," this order is not included in the print version of the Texas Register. The order is available in the on-line version of the July 12, 2024, issue of the Texas Register.)

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How to Use the Texas Register

Information Available: The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Review of Agency Rules - notices of state agency rules review.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 24 of Volume 49 (2024) is cited as follows: 49 TexReg 24.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "49 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 49 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: http://www.sos.state.tx.us. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC*) is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State's website at http://www.sos.state.tx.us/tac.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
26. Health and Human Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to Update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION
Part 4. Office of the Secretary of State
Chapter 91. Texas Register
1 TAC §91.1…….....950 *(P)*

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