

ADOPTION OF REVISIONS TO

SUBCHAPTER D. MOTOR CARRIER AND OVERSIZE OR OVERWEIGHT VEHICLE OR LOAD ENFORCEMENT

43 TAC §224.116 AND §224.124

AND

NEW §224.121

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Chapter 224, Subchapter D, Motor Carrier and Oversize or Overweight Vehicle or Load Enforcement, §224.116 and §224.124, and adopts new §224.121, regarding the requirements and procedures under Transportation Code, §643.2526.

The department adopts the following rules without changes to the proposed text as published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4406), and these rules will not be republished: §224.116 and §224.124. The department adopts §224.121 with a change to the proposed text as published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4406). This rule will be republished. The change at adoption to §224.121 is described in the Reasoned Justification section below.

REASONED JUSTIFICATION.

The amendments and new section are necessary to implement House Bill (HB) 1672, 89th Legislature, Regular Session (2025), which requires that the department adopt rules to create the requirements and procedures for the following, in part, under Transportation Code, §643.2526: 1) the revocation or suspension of a motor carrier's registration; 2) the placement of a motor carrier on probation whose registration is suspended; and 3) the motor carrier's appeal of the revocation, suspension, or probation. Adopted amendments are also necessary to clean up the rule text.

As stated above, the department published a proposal to revise Chapter 224 to implement HB 1672 in the July 25, 2025, issue of the *Texas Register*. Because HB 1672 became effective on May 24, 2025, the department also adopted similar amendments to revise Chapter 224 through emergency rules with an immediate effective date of July 10, 2025, as stated in the Emergency Rules section of the July 25, 2025, issue of the *Texas Register* (50 TexReg 4139). However, emergency rules may not be effective for longer than 120 days and may not be renewed for longer than 60 days according to Government Code, §2001.034. In the Withdrawn Rules section of this issue of the *Texas Register*, the department published a notice to withdraw the emergency rules on the date that the adopted revisions to Chapter 224 that are referenced in this adoption order become effective, so there will only be one version of these revisions to Chapter 224 in effect at the same time.

Adopted amendments to §224.116 implement HB 1672 by modifying the title of the section and adding new subsection (h) to clarify that these administrative procedures do not apply to a proceeding under Transportation Code, §643.2526. Section 224.116 provides the administrative procedures for a proceeding under laws that require the department to provide written notice to the person and an opportunity for the person to request a hearing before the department takes an administrative action against the person. Because Transportation Code, §643.2526 states that a department action under §643.2526 is not required to be preceded by notice and an opportunity for hearing, the adopted amendments to §224.116 clarify that this section does not apply to a proceeding under §643.2526. Adopted amendments to §224.116(a) also clean up the rule text by adding a hyphen to the term “first class mail” to read “first-class mail.”

Adopted new §224.121 and adopted amendments to §224.124 are necessary to implement amendments made by HB 1672 to Transportation Code, §643.2526. These revisions to Chapter 224 govern the requirements and procedures under Transportation Code, §643.2526, which authorizes the department to deny an application for registration, renewal of registration, or reregistration under

1 Transportation Code, Chapter 643 (Motor Carrier Registration) prior to providing the person with notice
2 and an opportunity for hearing. Upon request by the Texas Department of Public Safety (DPS) under
3 Transportation Code, §643.252(b) and prior to providing the person with notice and an opportunity for
4 hearing, the department is also authorized under Transportation Code, §643.2526 to revoke or suspend
5 the registration of a motor carrier or to place a motor carrier on probation whose registration is
6 suspended, if either of the following occur: 1) the motor carrier has an unsatisfactory safety rating under
7 49 C.F.R. Part 385 (Safety Fitness Procedures), which is determined by the Federal Motor Carrier Safety
8 Administration (FMCSA); or 2) the motor carrier committed multiple violations under Transportation
9 Code, Chapter 644 (Commercial Motor Vehicle Safety Standards), a rule adopted under Chapter 644, or
10 Subtitle C (Rules of the Road) of Transportation Code, Title 7 (Vehicles and Traffic), which is determined
11 by DPS. The references to registration under Transportation Code, Chapter 643 are references to
12 operating authority to operate as a motor carrier, rather than vehicle registration under Transportation
13 Code, Chapter 502.

14 Adopted new §224.121 provides the requirements and procedures regarding the department's
15 action under Transportation Code, §643.2526. Adopted new §224.121(a) states that the department will
16 only revoke a motor carrier's registration under Transportation Code, §643.2526 pursuant to a request
17 from DPS under Transportation Code, §643.252(b). Although Transportation Code, §643.252(b)
18 authorizes DPS to request the department to suspend or revoke a registration issued to a motor carrier
19 under Transportation Code, Chapter 643, or to place on probation a motor carrier whose registration is
20 suspended, the department will only revoke the registration of a motor carrier under Transportation
21 Code, §643.252(b). The department's current system is not programmed to suspend a motor carrier's
22 registration, so revocation is the only option at this time.

23 Also, the DPS administrative rule regarding DPS's request to the department under Transportation
24 Code, §643.252(b) only refers to a revocation of the motor carrier's registration. See 37 TAC §4.19(a).

1 Transportation Code, §644.051(b) states that a DPS rule adopted under Transportation Code, Chapter 644
2 must be consistent with federal regulations. Section 4.19(a), which was adopted under the DPS
3 rulemaking authority in Transportation Code, §644.051, is consistent with 49 C.F.R. §385.13(e), which
4 states that if an interstate motor carrier has a final unsatisfactory safety rating, FMCSA will provide notice
5 to the motor carrier and issue an order revoking the motor carrier's interstate registration, which is also
6 known as operating authority to operate as a motor carrier in interstate transportation. Because DPS does
7 not administer Transportation Code, Chapter 643, DPS must request the department to revoke a motor
8 carrier's registration for intrastate transportation.

9 Adopted new §224.121(a) also states that the department will not take action under
10 Transportation Code, §643.252(b) until FMCSA or DPS, as applicable, issues an order regarding the laws
11 referenced in §643.252(b). This requirement is necessary to help protect the person's due process rights
12 because Transportation Code, §643.2526 authorizes the department to take action against the person
13 prior to providing notice and an opportunity for a hearing. FMCSA and DPS are required to comply with
14 the due process requirements under the laws that govern their actions when issuing an order under the
15 laws referenced in Transportation Code, §643.252(b). The process set out in new §224.121(a) ensures
16 that while a motor carrier may not receive notice and an opportunity for a hearing from the department
17 before the department revokes the motor carrier's registration, the motor carrier should have received
18 full due process on the same factual and legal allegations from either FMCSA or DPS.

19 The FMCSA order under 49 C.F.R. §385.13(d)(1) is called an out-of-service order, which prohibits
20 the motor carrier from engaging in interstate transportation. See 49 U.S.C. §31144(c) and 49 C.F.R.
21 §385.1(a) and §385.13(d)(1). The FMCSA procedures and proceedings regarding an out-of-service order
22 are governed by 49 U.S.C. §31144, 49 C.F.R. Part 385 (Safety Fitness Procedures), and 49 C.F.R. Part 386
23 (Rules of Practice for FMCSA Proceedings).

1 The DPS order under Transportation Code, §644.155 and 37 TAC §4.15 is called an order to cease,
2 which prohibits the motor carrier from operating a commercial motor vehicle in intrastate transportation.
3 The DPS proceedings regarding an order to cease are governed by 37 TAC §4.15 and §4.18. The DPS order
4 to cease tells the motor carrier that it must immediately cease all intrastate transportation until such time
5 as DPS determines the motor carrier's safety rating is no longer unsatisfactory.

6 Adopted new §224.121(b) states that the department will issue notice of the department's action
7 under Transportation Code, §643.2526 to the person by email and first-class mail using the person's last
8 known address in the department's records. The notice requirements under Government Code,
9 §2001.054(c) do not apply to the department's notice regarding the department's action under
10 Transportation Code, §643.2526 because Transportation Code, §643.2526(a) says that the department's
11 action under Transportation Code, §643.252(b) is not required to be preceded by notice and an
12 opportunity for hearing, notwithstanding other law. Also, the motor carrier should have already received
13 due process under the DPS or FMCSA proceeding that resulted in an order to cease or out-of-service order,
14 respectively.

15 The department adopts §224.121(b) with a change at adoption to include a hyphen between the
16 words "first" and "class" because the word "first-class" is a compound modifier for the word "mail."

17 Adopted amendments to §224.124 implement HB 1672 by expanding the scope of the rule to be
18 consistent with the expanded scope of Transportation Code, §643.2526 as amended by HB 1672. An
19 adopted amendment to §224.124 modifies the title of the section to refer to an appeal of a department
20 action under Transportation Code, §643.2526 because §643.2526 is no longer limited to an appeal of a
21 denial of an application for registration, renewal of registration, or reregistration. An adopted amendment
22 to §224.124 also deletes prior subsection (a) because it unnecessarily repeated language in Transportation
23 Code, §643.2526 and did not cover the expanded scope of §643.2526 as amended by HB 1672. In addition,

adopted amendments to §224.124 re-letter prior subsections (b), (c), and (d) due to the deletion of prior subsection (a).

An adopted amendment to re-lettered §224.124(a) clarifies that Subchapter E of Chapter 224 of this title is not the only subchapter in Chapter 224 that applies to an appeal to the department under Transportation Code, §643.2526. Adopted amendments to re-lettered §224.124(b) expand the scope of the rule to be consistent with the expanded scope of Transportation Code, §643.2526 as amended by HB 1672.

Adopted new §224.124(d) states that on appeal under Transportation Code, §643.2526, the department will not rescind a revocation under Transportation Code, §643.252(b) based on the motor carrier taking corrective action that results in an upgrade to its unsatisfactory safety rating after the department has issued notice to the motor carrier that the department revoked the motor carrier's registration. DPS wants the department to immediately revoke a motor carrier's registration under Transportation Code, Chapter 643 once DPS requests the department to revoke under Transportation Code, §643.252(b). The department will not wait to see if the motor carrier takes either of the following actions prior to revoking the motor carrier's registration: 1) requests DPS or FMCSA, as applicable, to change the final safety rating or to conduct a review regarding the final safety rating; or 2) appeals their final safety rating to a court under the laws that govern the DPS or FMCSA order, as applicable.

FMCSA's regulation states that a motor carrier that has taken action to correct the deficiencies that resulted in a final rating of "unsatisfactory" may request a rating change at any time. *See* 49 C.F.R. §385.17(a). Another FMCSA regulation states as follows: 1) that a motor carrier may request FMCSA to conduct an administrative review if it believes that FMCSA committed an error in assigning the final safety rating; 2) that FMCSA's decision under the administrative review constitutes the final agency action; and 3) that a motor carrier may request a rating change under the provisions of 49 C.F.R. §385.17. *See* 49 C.F.R. §385.15. In addition, federal law authorizes the motor carrier to appeal FMCSA's final order to the

1 applicable United States Court of Appeals under 49 U.S.C. §521(b)(9) and 49 C.F.R. §386.67. Therefore, it
2 is possible that FMCSA could change a motor carrier's safety rating from unsatisfactory to satisfactory or
3 conditional after FMCSA issued the out-of-service order to the motor carrier and after the department
4 revoked the motor carrier's registration pursuant to DPS's request under Transportation Code,
5 §643.252(b).

6 The DPS administrative rule states that a motor carrier that has taken action to correct the
7 deficiencies that resulted in a final rating of "unsatisfactory" may request a rating change at any time. *See*
8 37 TAC §4.15(b)(3)(G). The DPS rule also states that the motor carrier may request DPS to conduct a
9 departmental review if the motor carrier believes that DPS has committed error in assigning the final
10 safety rating, that the final safety rating under the DPS departmental review constitutes a final agency
11 decision, and that any judicial review of the DPS final agency decision is subject to Government Code,
12 Chapter 2001. *See* 37 TAC §4.15(b)(3)(H) and (I). Therefore, it is possible that DPS could change a motor
13 carrier's safety rating from unsatisfactory to satisfactory or conditional after DPS issued the order to cease
14 to the motor carrier and after the department revoked the motor carrier's registration pursuant to DPS's
15 request under Transportation Code, §643.252(b).

16 Once the department issues a revocation under Transportation Code, §643.2526, the revocation
17 is effective and cannot be rescinded unless the motor carrier submits a timely appeal under §643.2526. If
18 the motor carrier timely submits an appeal under Transportation Code, §643.2526, if the underlying order
19 from DPS or FMCSA was issued to the correct motor carrier in compliance with the motor carrier's due
20 process rights, and if the applicable requirements under Transportation Code, §643.252(b) were met at
21 the time DPS requested the department to revoke the motor carrier's registration, the department's
22 revocation will not be rescinded on appeal to the department. If the motor carrier resolves its
23 unsatisfactory safety rating and is no longer subject to the order to cease or out-of-service order after the
24 department revokes the motor carrier's registration, the evidence on appeal will not show any error

1 regarding the department's revocation. However, an appeal of a revocation under Transportation Code,
2 §643.2526 may result in a rescission of the revocation if the underlying order from DPS or FMCSA, as
3 applicable, was issued in violation of the motor carrier's due process rights or was issued to the motor
4 carrier in error.

5 When determining whether to request the department to revoke the motor carrier's registration
6 under Transportation Code, §643.252(b), it is within DPS's discretion to consider whether the motor
7 carrier's unsatisfactory safety rating might change to a satisfactory or conditional safety rating after the
8 issuance of an order to cease or an out-of-service order. Once the department receives the request from
9 DPS to revoke the motor carrier's registration under Transportation Code, §643.252(b), the department
10 will immediately revoke the registration if the applicable requirements under §643.252(b) were met. If
11 the department revoked a motor carrier's registration pursuant to DPS's request under Transportation
12 Code, §643.252(b), and the motor carrier later improves its safety rating and is no longer subject to an
13 out-of-service order or an order to cease, the department will consider this fact when reviewing the motor
14 carrier's application for reregistration under Transportation Code, §643.0585 or the motor carrier's
15 application for registration under Transportation Code, §643.052.

16 Adopted new §224.124(e) requires the person who submits an appeal to the department under
17 Transportation Code, §643.2526 to state why the person claims the department's action is erroneous, as
18 well as the legal and factual basis for the claimed error. This information is necessary to enable the
19 department to comply with a requirement to docket the contested case with the State Office of
20 Administrative Hearings under 1 TAC §155.53(a)(1), which requires the Request to Docket Case form to
21 be submitted together with the complaint or other pertinent documents describing the agency action
22 giving rise to the contested case.

23 SUMMARY OF COMMENTS.

24 No comments on the proposed revisions were received.

SUBCHAPTER D. MOTOR CARRIER AND OVERSIZE OR OVERWEIGHT VEHICLE OR LOAD ENFORCEMENT

STATUTORY AUTHORITY. The department adopts new rules and amendments under Transportation Code, §643.2526(d), as amended by House Bill (HB) 1672, 89th Legislature, Regular Session (2025), which requires the department to adopt rules as necessary to implement §643.2526, including rules governing the requirements and procedures under §643.2526; 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; Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §643.252, which authorizes the department to suspend, revoke, or deny a registration issued under Transportation Code, Chapter 643 or place on probation a motor carrier whose registration is suspended; 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; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted new rules and amendments implement Government Code, Chapter 2001; and Transportation Code, §§643.252(b), 643.2526, and 1002.001.

TEXT.

§224.116. Administrative Proceedings, Excluding Proceedings Under Transportation Code, §643.2526.

(a) If the department decides to take an enforcement action under §218.16 of this title (relating to Insurance Requirements) for the revocation of self-insured status, §218.64 of this title (relating to Rates), §218.71 of this title (relating to Administrative Penalties), §219.121 of this title (relating to

Administrative Penalties and Sanctions under Transportation Code, §623.271), §218.72 of this title

(relating to Administrative Sanctions), or §219.126 of this title (relating to Administrative Penalty for

False Information on Certificate by a Shipper), the department shall mail a Notice of Department

Decision to the person by first-class mail to the last known address as shown in department records. If

the enforcement action falls under the Memorandum of Agreement with the Federal Motor Carrier

Safety Administration (FMCSA) under §218.71, the department shall mail the Notice of Department

Decision to the person by first-class mail to the last known address as shown in FMCSA's records.

(b) The Notice of Department Decision shall include:

(1) a brief summary of the alleged violation or enforcement action being proposed;

(2) a statement describing each sanction, penalty, or enforcement action proposed;

(3) a statement informing the person of the right to request a hearing;

(4) a statement of the procedure a person must use to request a hearing, including the deadline for filing a request with the department and the acceptable methods to request a hearing; and

(5) a statement that a proposed penalty, sanction, or enforcement action will become final and take effect on a specific date if the person fails to request a hearing.

(c) A person must submit to the department a written request for a hearing to the address provided in the Notice of Department Decision not later than the 26th day after the date the notice is mailed by the department; however, this requirement does not apply to a contested case that falls under §218.64 and Transportation Code, §643.154.

(d) If a person submits a timely written request for a hearing or the contested case that falls under §218.64 and Transportation Code, §643.154, the department will contact the person and attempt to informally resolve the contested case. If the person and the department cannot informally resolve the contested case, the department will refer the contested case to SOAH to set a hearing date and will give notice of the time and place of the hearing to the person.

(e) Except as provided by Transportation Code, §643.154, if the person does not make a timely request for a hearing or agree to settle a contested case within 26 days of the date the Notice of Department Decision was mailed, the allegations are deemed admitted on the 27th day and a final order including sanctions and penalties may be issued by the final order authority.

(f) Except as provided by statute and the applicable provisions of this chapter, any SOAH proceeding is governed by Government Code, Chapter 2001 and 1 TAC Chapter 155, including the authority of the department to informally dispose of the contested case by stipulation, agreed settlement, consent order, or default. The department will follow the process set forth in Transportation Code, §643.2525 and the applicable provisions of this chapter when enforcing the federal laws and regulations cited in §218.71 to the extent authorized by applicable federal laws and regulations.

(g) The department and the person may informally resolve the contested case by entering into a settlement agreement or agreeing to stipulations at any time before the director issues a final order. However, the person must pay any penalty in full prior to the execution of a settlement agreement.

(h) This section does not apply to a department action under Transportation Code, §643.2526.

§224.121. Administrative Proceedings under Transportation Code, §643.2526.

(a) The department will only revoke the registration of a motor carrier under Transportation Code, §643.2526 pursuant to a request from the Texas Department of Public Safety under Transportation Code, §643.252(b) after the issuance of an order by the following, as applicable:

(1) the Federal Motor Carrier Safety Administration regarding an unsatisfactory safety rating under 49 C.F.R. Part 385; or

(2) the Texas Department of Public Safety regarding multiple violations of the following:

(A) Transportation Code, Chapter 644;

(B) a rule adopted under Transportation Code, Chapter 644; or

(C) Subtitle C of Title 7 of the Transportation Code.

(b) The department will issue notice of the department's action under Transportation Code, §643.2526 to the person by email and first-class mail using the person's last known address in the department's records.

§224.124. Appeal of Department Action Under Transportation Code, §643.2526.

(a) An appeal to the department under Transportation Code, §643.2526 will be governed by Chapter 224 of this title (relating to Adjudicative Practice and Procedure).

(b) An appeal will be considered untimely if it is not filed with the department by the 26th day after the date of the department's issuance of notice of the department's action. The department will not consider an untimely appeal.

(c) An application that is withdrawn under Transportation Code, §643.055 is not a denial of an application for the purposes of an appeal under Transportation Code, §643.2526.

(d) On appeal, the department will not rescind a revocation under Transportation Code, §643.252(b) based on the motor carrier taking corrective action that results in an upgrade to its unsatisfactory safety rating after the department has issued notice to the motor carrier that the department revoked the motor carrier's registration.

(e) An appeal under Transportation Code, §643.2526 must state why the person claims the department's action is erroneous, as well as the legal and factual basis for the claimed error.