

EMERGENCY 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, on an emergency basis, revisions to 43 Texas Administrative Code (TAC) Chapter 224, Subchapter D, Motor Carrier and Oversize or Overweight Vehicle or Load Enforcement, by amending §224.116 and §224.124, and adding new §224.121, regarding the requirements and procedures under Transportation Code, §643.2526. The amendments and new section are necessary to implement House Bill (HB) 1672, 89th Legislature, Regular Session (2025). Adopted amendments are also necessary to clean up the rule text.

Government Code, §2001.034 authorizes a state agency to adopt an emergency rule without prior notice or hearing if the agency finds that a requirement of state law requires adoption of a rule on fewer than 30 days' notice. Emergency rules adopted under Government Code, §2001.034 may not be effective for longer than 120 days and may not be renewed for longer than 60 days.

EXPLANATION.

This emergency rulemaking is necessary because HB 1672 became effective on May 24, 2025, and requires the department to adopt rules to create the requirements and procedures for the following 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. The board of the Texas Department of Motor

1 Vehicles (board) did not meet in May or June of 2025 to approve the adoption of these emergency rules.
2 The board met on July 10, 2025, and approved the adoption of these emergency rules.

3 Adopted amendments to §224.116 implement HB 1672 by modifying the title of the section and
4 adding new subsection (h) to clarify that these administrative procedures do not apply to a proceeding
5 under Transportation Code, §643.2526. Section 224.116 provides the administrative procedures for a
6 proceeding under laws that require the department to provide written notice to the person and an
7 opportunity for the person to request a hearing before the department takes an administrative action
8 against the person. Because Transportation Code, §643.2526 states that a department action under
9 §643.2526 is not required to be preceded by notice and an opportunity for hearing, the department
10 adopts amendments to §224.116 to clarify that this section does not apply to a proceeding under
11 §643.2526. Adopted amendments to §224.116(a) are also necessary to clean up the rule text by adding a
12 hyphen to the term “first class mail” to read “first-class mail.”

13 Adopted new §224.121 and amendments to §224.124 are necessary to implement amendments
14 made by HB 1672 to Transportation Code, §643.2526. Sections 224.121 and 224.124 govern the
15 requirements and procedures under Transportation Code, §643.2526, which authorizes the department
16 to deny an application for registration, renewal of registration, or reregistration under Transportation
17 Code, Chapter 643 (Motor Carrier Registration) prior to providing the person with notice and an
18 opportunity for hearing. Upon request by the Texas Department of Public Safety (DPS) under
19 Transportation Code, §643.252(b), and prior to providing the person with notice and an opportunity for
20 hearing, the department is also authorized under Transportation Code, §643.2526 to revoke or suspend
21 the registration of a motor carrier or to place a motor carrier on probation whose registration is
22 suspended, if the motor carrier has an unsatisfactory safety rating under 49 C.F.R. Part 385 (Safety Fitness
23 Procedures), which is determined by the Federal Motor Carrier Safety Administration (FMCSA); or multiple

1 violations of Transportation Code, Chapter 644 (Commercial Motor Vehicle Safety Standards), a rule
2 adopted under Chapter 644, or Subtitle C (Rules of the Road) of Transportation Code, Title 7 (Vehicles and
3 Traffic), which is determined by DPS. The references to registration under Transportation Code, Chapter
4 643 are references to operating authority to operate as a motor carrier, rather than vehicle registration
5 under Transportation Code, Chapter 502.

6 Adopted new §224.121 is necessary to provide the requirements and procedures regarding the
7 department's action under Transportation Code, §643.2526. Adopted new §224.121(a) states that the
8 department will only revoke a motor carrier's registration under Transportation Code, §643.2526
9 pursuant to a request from DPS under Transportation Code, §643.252(b). Although Transportation Code,
10 §643.252(b) authorizes DPS to request the department to suspend or revoke a registration issued to a
11 motor carrier under Transportation Code, Chapter 643, or to place on probation a motor carrier whose
12 registration is suspended, the department will only revoke the registration of a motor carrier under
13 Transportation Code, §643.252(b). The department's current system is not programmed to suspend a
14 motor carrier's registration, so revocation is the only option.

15 Also, the DPS rule regarding DPS's request to the department under Transportation Code,
16 §643.252(b) only refers to a revocation of the motor carrier's registration. *See* 37 TAC §4.19(a).
17 Transportation Code, §644.051(b) states that a DPS rule adopted under Transportation Code, Chapter 644
18 must be consistent with federal regulations. Section 4.19(a), which was adopted under the DPS
19 rulemaking authority in Transportation Code, §644.051, is consistent with 49 C.F.R. §385.13(e), which
20 states that if an interstate motor carrier has a final unsatisfactory safety rating, FMCSA will provide notice
21 to the motor carrier and issue an order revoking the motor carrier's interstate registration, which is also
22 known as operating authority to operate as a motor carrier in interstate transportation. Because DPS does

1 not administer Transportation Code, Chapter 643, DPS must request the department to revoke a motor
2 carrier's registration for intrastate transportation.

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

13 The FMCSA order under 49 C.F.R. §385.13(d)(1) is called an out-of-service order, which prohibits
14 the motor carrier from engaging in interstate transportation. *See* 49 U.S.C. §31144(c) and 49 C.F.R.
15 §385.1(a) and §385.13(d)(1). The FMCSA procedures and proceedings regarding an out-of-service order
16 are governed by 49 U.S.C. §31144, 49 C.F.R. Part 385 (Safety Fitness Procedures), and 49 C.F.R. Part 386
17 (Rules of Practice for FMCSA Proceedings).

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

1 Adopted new §224.121(b) states that the department will issue notice of the department's action
2 under Transportation Code, §643.2526 to the person by email and first-class mail using the person's last
3 known address in the department's records. The notice requirements under Government Code,
4 §2001.054(c) do not apply to the department's notice regarding the department's action under
5 Transportation Code, §643.2526 because Transportation Code, §643.2526(a) says that the department's
6 action under Transportation Code, §643.252(b) is not required to be preceded by notice and an
7 opportunity for hearing, notwithstanding other law. Also, the motor carrier should have already received
8 due process under the DPS or FMCSA proceeding that resulted in an order to cease or out-of-service order,
9 respectively.

10 Adopted amendments to §224.124 implement HB 1672 by modifying the title of the section to
11 refer to an appeal of a department action. Adopted amendments to §224.124 delete subsection (a), and
12 amend existing subsections (b) and (c) to expand the scope of the rule to be consistent with the expanded
13 scope of Transportation Code, §643.2526, as amended by HB 1672. An adopted amendment to existing
14 subsection (b) clarifies that Subchapter E of Chapter 224 of this title is not the only subchapter in Chapter
15 224 that would apply to an appeal to the department under Transportation Code, §643.2526. Adopted
16 amendments re-letter existing subsections (b), (c), and (d) due to the deletion of subsection (a).

17 Adopted new §224.124(d) states that on appeal under Transportation Code, §643.2526, the
18 department will not rescind a revocation under Transportation Code, §643.252(b), based on the motor
19 carrier taking corrective action that results in an upgrade to its unsatisfactory safety rating after the
20 department issued notice to the motor carrier that it revoked the motor carrier's registration. DPS wants
21 the department to immediately revoke a motor carrier's registration under Transportation Code, Chapter
22 643 once DPS requests the department to revoke under Transportation Code, §643.252(b). The
23 department will not wait to see if the motor carrier takes either of the following actions prior to revoking

1 the motor carrier's registration: 1) requests DPS or FMCSA, as applicable, to change the final safety rating
2 or to conduct a review regarding the final safety rating; or 2) appeals their final safety rating to a court
3 under the laws that govern the DPS or FMCSA order, as applicable.

4 FMCSA's regulation states that a motor carrier that has taken action to correct the deficiencies
5 that resulted in a final rating of "unsatisfactory" may request a rating change at any time. *See* 49 C.F.R.
6 §385.17(a). Another FMCSA regulation states as follows: 1) that a motor carrier may request FMCSA to
7 conduct an administrative review if it believes that FMCSA committed an error in assigning the final safety
8 rating; 2) that FMCSA's decision under the administrative review constitutes the final agency action; and
9 3) that a motor carrier may request a rating change under the provisions of 49 C.F.R. §385.17. *See* 49
10 C.F.R. §385.15. In addition, federal law authorizes the motor carrier to appeal FMCSA's final order to the
11 applicable United States Court of Appeals under 49 U.S.C. §521(b)(9) and 49 C.F.R. §386.67. Therefore, it
12 is possible that FMCSA could change a motor carrier's safety rating from unsatisfactory to satisfactory or
13 conditional after FMCSA issued the out-of-service order to the motor carrier and after the department
14 revoked the motor carrier's registration pursuant to DPS's request under Transportation Code,
15 §643.252(b).

16 The DPS administrative rule states that a motor carrier that has taken action to correct the
17 deficiencies that resulted in a final rating of "unsatisfactory" may request a rating change at any time. *See*
18 37 TAC §4.15(b)(3)(G). The DPS rule also states that the motor carrier may request DPS to conduct a
19 departmental review if the motor carrier believes that DPS has committed error in assigning the final
20 safety rating, that the final safety rating under the DPS departmental review constitutes a final agency
21 decision, and that any judicial review of the DPS final agency decision is subject to Government Code,
22 Chapter 2001. *See* 37 TAC §4.15(b)(3)(H) and (I). Therefore, it is possible that DPS could change a motor
23 carrier's safety rating from unsatisfactory to satisfactory or conditional after DPS issued the order to cease

1 to the motor carrier and after the department revoked the motor carrier's registration pursuant to DPS's
2 request under Transportation Code, §643.252(b).

3 Once the department issues a revocation under Transportation Code, §643.2526, the revocation
4 is effective and cannot be rescinded unless the motor carrier submits a timely appeal under §643.2526. If
5 the motor carrier timely submits an appeal under Transportation Code, §643.2526, if the underlying order
6 from DPS or FMCSA was issued in compliance with the motor carrier's due process rights, and if the
7 requirements under Transportation Code, §643.252(b) were met at the time DPS requested the
8 department to revoke the motor carrier's registration, the department's revocation will not be rescinded
9 on appeal to the department. If the motor carrier resolves its unsatisfactory safety rating and is no longer
10 subject to the order to cease or out-of-service order after the department revokes the motor carrier's
11 registration, the evidence on appeal will not show any error regarding the department's revocation.
12 However, an appeal of a revocation under Transportation Code, §643.2526 may result in a rescission of
13 the revocation if the underlying order from DPS or FMCSA, as applicable, was issued in violation of the
14 motor carrier's due process rights or was issued to the motor carrier in error.

15 When determining whether to request the department to revoke the motor carrier's registration
16 under Transportation Code, §643.252(b), it is within DPS's discretion to consider whether the motor
17 carrier's unsatisfactory safety rating might change to a satisfactory or conditional safety rating after the
18 issuance of an order to cease or an out-of-service order. Once the department receives the request from
19 DPS to revoke the motor carrier's registration under Transportation Code, §643.252(b), the department
20 will immediately revoke the registration. If the department revoked a motor carrier's registration
21 pursuant to DPS's request under Transportation Code, §643.252(b), and the motor carrier later improves
22 its safety rating and is no longer subject to an out-of-service order or an order to cease, the department
23 will take this fact into consideration when reviewing the motor carrier's application for reregistration

1 under Transportation Code, §643.0585 or the motor carrier’s application for registration under
2 Transportation Code, §643.052.

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

10
11 **SUBCHAPTER D. MOTOR CARRIER AND OVERSIZE OR OVERWEIGHT VEHICLE OR LOAD ENFORCEMENT**
12

13 **STATUTORY AUTHORITY.** The department adopts the amendments under Transportation Code,
14 §643.2526(d), which requires the department to adopt rules as necessary to implement §643.2526,
15 including rules governing the requirements and procedures under §643.2526; Government Code,
16 §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements
17 of all available formal and informal procedures; Transportation Code, §643.003, which authorizes the
18 department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code,
19 §643.252, which authorizes the department to suspend, revoke, or deny a registration issued under
20 Transportation Code, Chapter 643 or place on probation a motor carrier whose registration is suspended;
21 Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and
22 appropriate to implement the powers and duties of the department; and the statutory authority
23 referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted 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 ~~[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 ~~[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

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

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

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

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

16 (f) Except as provided by statute and the applicable provisions of this chapter, any SOAH
17 proceeding is governed by Government Code, Chapter 2001 and 1 TAC Chapter 155, including the
18 authority of the department to informally dispose of the contested case by stipulation, agreed
19 settlement, consent order, or default. The department will follow the process set forth in Transportation
20 Code, §643.2525 and the applicable provisions of this chapter when enforcing the federal laws and
21 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 [of Denial] Under Transportation Code, §643.2526.

~~[(a) Pursuant to Transportation Code, §643.2526, an applicant may appeal the denial of an application for registration, renewal of registration, or reregistration under Transportation Code, Chapter 643.]~~

1 (a) ~~[(b)]~~ An [The] appeal to the department under Transportation Code, §643.2526 will be
2 governed by Chapter 224 ~~[-Subchapter E]~~ of this title (relating to Adjudicative Practice and Procedure).
3 ~~[Contested Cases Referred to SOAH].~~

4 (b) ~~[(c)]~~ An [The applicant's] appeal will be considered untimely if it is not filed with the
5 department by the 26th day after the date of the department's issuance of notice of the department's
6 action. ~~[denial of the application.]~~ The department will not consider an untimely appeal.

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

9 (d) On appeal, the department will not rescind a revocation under Transportation Code,
10 §643.252(b) based on the motor carrier taking corrective action that results in an upgrade to its
11 unsatisfactory safety rating after the department issued notice to the motor carrier that the department
12 revoked the motor carrier's registration.

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