

PROPOSAL OF REVISIONS TO

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §§224.1, 224.5, 224.27, AND 224.29

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

§224.110

SUBCHAPTER E. CONTESTED CASES REFERRED TO SOAH

43 TAC §§224.150, 224.152, 224.164, AND 224.166

SUBCHAPTER F. BOARD PROCEDURES IN CONTESTED CASES

43 TAC §§224.190, 224.194, 224.198, 224.200, AND 224.204

PROPOSAL OF NEW

SUBCHAPTER H. AUTOMATED MOTOR VEHICLE AUTHORIZATIONS

43 TAC §§224.290, 224.292, AND 224.294

SUBCHAPTER I. MOTOR CARRIER DIVISION DIRECTOR PROCEDURES IN CONTESTED CASES

43 TAC §§224.310, 224.312, 224.314, 224.316, 224.318, 224.320, 224.322, 224.324, AND 224.326

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes amendments to 43 Texas Administrative Code (TAC) Chapter 224, Adjudicative Practice and Procedure; Subchapter A, General Provisions, §§224.1, 224.5, 224.27, and 224.29; proposes amendments to Subchapter D, Motor Carrier and Oversize or Overweight Vehicle or Load Enforcement, §224.110; proposes amendments to Subchapter E, Contested Cases Referred to SOAH, §§224.150, 224.152, 224.164, and 224.166; proposes amendments to Subchapter F, Board Procedures in Contested Cases, §§224.190, 224.194, 224.198, 224.200, and 224.204; proposes new Subchapter H, Automated Motor Vehicle Authorizations, §§224.290,

224.292, and 224.294; and proposes new Subchapter I, Motor Carrier Division Director Procedures in Contested Cases, §§224.310, 224.312, 224.314, 224.316, 224.318, 224.320, 224.322, 224.324, and 224.326, concerning adjudicative practice and procedure. The amendments and new sections are necessary to implement Senate Bill (SB) 2807, 89th Legislature, Regular Session (2025) regarding administrative sanctions against an automated motor vehicle authorization holder; to provide the requirements when the director of the department's Motor Carrier Division is the final order authority; to provide procedures regarding a special public meeting at which the director of the department's Motor Carrier Division is authorized to review a contested case; and to clean up the rule text.

SB 2807 amends Subchapter J of Chapter 545 of the Transportation Code regarding the operation of automated motor vehicles. The SB 2807 amendments include a requirement for a person to receive and maintain authorization from the department to operate an automated motor vehicle to transport property or passengers in furtherance of a commercial enterprise on a highway or street in Texas without a human driver.

EXPLANATION.

Subchapter A. General Provisions

Proposed amendments to §224.1 would implement SB 2807 by expanding the scope of the subchapter to include the adjudication of a contested case arising under Transportation Code, §545.459(k) regarding the suspension, revocation, or cancellation of an authorization under Transportation Code, §545.456; the imposition of a restriction on the operation of the automated motor vehicle under Transportation Code, §545.459(k); and the rescission of a suspension, revocation, or cancellation of an authorization, or the removal of a restriction on the operation of the automated motor vehicle under

1 Transportation Code, §545.459(k). Proposed amendments to §224.1 would also modify punctuation and
2 language to address the added reference to Transportation Code, §545.459(k).

3 Proposed amendments to §224.5 would add references to the department’s final order authority
4 in subsections (a) and (b) to clean up the rule text to clarify that it applies to the department’s Motor
5 Carrier Division Director in contested cases arising under Transportation Code, Chapter 643. The term
6 “final order authority” is defined in §224.3 as the person with authority under statute or a board rule to
7 issue a final order. Although §224.5 currently refers to a board delegate in subsections (a) and (b), the
8 authority of the department’s Motor Carrier Division Director to issue final orders under Transportation
9 Code, Chapter 643 was provided by the department’s executive director under Transportation Code,
10 §643.001(2), rather than by delegation of the board. These proposed amendments would clarify that
11 Government Code, §2001.061, regarding the prohibition against ex parte communications concerning a
12 contested case, apply to a contested case under Transportation Code, Chapter 643 for which the
13 department’s Motor Carrier Division Director has final order authority.

14 Under proposed amendments to §224.27 and §224.29, and under proposed new §224.294(j), the
15 final order authority for contested cases under Transportation Code, §545.459(k) would be the
16 department’s Motor Carrier Division Director or the board, depending on whether the administrative law
17 judge from the State Office of Administrative Hearings (SOAH) issued a proposal for decision and whether
18 the proposal for decision is for a default proceeding under 1 TAC §155.501. If the SOAH administrative
19 law judge issued a proposal for decision that is not based on a default proceeding at SOAH, the board is
20 the final order authority for the contested case. If the proposal for decision is based on a default
21 proceeding at SOAH or if there is not a proposal for decision, the department’s Motor Carrier Division
22 Director is the final order authority for the contested case, including contested cases resolved under 1
23 TAC §155.503 (Dismissal) or Government Code, §2001.056 (Informal Disposition of Contested Cases).

1 A proposed amendment to §224.27(b) would implement SB 2807 by stating that the board has
2 final order authority under a contested case filed under Transportation Code, §545.459(k), except as
3 provided by §224.29. Proposed amendments to §224.27 would also modify language and punctuation due
4 to the proposed reference to Transportation Code, §545.459(k).

5 A proposed amendment to §224.29(c) would delete a reference to “any power relating to a
6 contested case” because §224.29 is specifically about final order authority. Other sections in Chapter 224
7 govern other authority regarding a contested case, such as §224.13, which sets out the authority for
8 certain department staff to issue a subpoena or commission to take a deposition in a contested case. A
9 proposed amendment to §224.29(c) would also delete a comma due to the proposed deletion of language
10 from this subsection. In addition, a proposed amendment to §224.29(c) would clarify that Transportation
11 Code, §643.001(2) is the other statutory authority under which final order authority may be delegated to
12 the director of the department’s Motor Carrier Division.

13 Proposed amendments to §224.29 would add new subsection (d) to delegate authority to the
14 department’s Motor Carrier Division Director to issue a final order under Transportation Code,
15 §545.459(k) in a contested case in which the administrative law judge at SOAH has not submitted a
16 proposal for decision to the department for consideration by the final order authority, and a contested
17 case in which the administrative law judge at SOAH submitted a proposal for decision regarding a default
18 proceeding to the department for consideration by the final order authority, as explained above. This
19 delegation is authorized by Transportation Code, §1003.005. In addition, proposed amendments to
20 §224.29 would re-letter current subsection (d) to subsection (e), and update references in that subsection
21 due to the proposed addition of new subsection (d).

22 **Subchapter D. Motor Carrier and Oversize or Overweight Vehicle or Load Enforcement**

1 A proposed amendment to §224.110 regarding the purpose and scope of Subchapter D would
2 replace the reference to Subchapter F with a reference to proposed new Subchapter I regarding the
3 procedures in contested cases in which the director of the department's Motor Carrier Division, rather
4 than the board, is the final order authority.

5 **Subchapter E. Contested Cases Referred to SOAH**

6 A proposed amendment to §224.150(a) would add a reference to proposed new §224.294,
7 relating to suspension, revocation, or cancellation of authorization under Transportation Code, §545.459
8 to operate one or more automated motor vehicles. The proposed amendments to §224.150(a) would
9 modify the scope of Subchapter E of Chapter 224 to include contested cases involving authorizations to
10 operate autonomous vehicles. This change is necessary to implement SB 2807 because Transportation
11 Code, §545.459(k) states that an authorization holder who is aggrieved by an action of the department
12 under Transportation Code, §545.459(h) may submit a written request for a hearing at SOAH. Also,
13 Transportation Code, §545.459(l) states that the contested case provisions of Government Code, Chapter
14 2001 apply to a proceeding under Transportation Code, §545.459(k).

15 A proposed amendment to §224.150(c) would add a reference to new Subchapter I of Chapter
16 224, regarding procedures in contested cases when the board is not the final order authority. The
17 language in current Subchapter F regarding board procedures in contested cases includes certain terms,
18 such as "board chair," as well as certain references, such as a reference to a board meeting under 43 TAC
19 §206.22, that do not apply to the final order authority of the department's Motor Carrier Division Director
20 under this chapter or Transportation Code, Chapter 643. Proposed new Subchapter I would include
21 modified language from current Subchapter F to address the procedures in contested cases when the
22 board is not the final order authority, so it is necessary to propose amendments to §224.150(c) to
23 reference proposed new Subchapter I of Chapter 224.

1 A proposed amendment to §224.152(a) would implement SB 2807 by adding a reference to
2 Transportation Code, §545.459(k) regarding the department's requirement to refer contested cases to
3 SOAH when an authorization holder timely submits a written request for a hearing.

4 Proposed amendments to §224.164(d) would authorize a party to a contested case to raise an
5 issue regarding a final proposal for decision before the department's Motor Carrier Division Director
6 during oral presentation at a special public meeting, if any, under proposed new Subchapter I of Chapter
7 224. This would allow parties in contested cases that are decided by the department's Motor Carrier
8 Division Director the same right to raise issues with a final proposal for decision as parties in a case decided
9 by the board if a special public meeting is held.

10 Proposed amendments to §224.166(b) and (d) would refer to the department's Motor Carrier
11 Division Director under Chapter 224, and a proposed amendment to §224.166(d) would refer to proposed
12 new Subchapter I of Chapter 224 regarding the transfer of jurisdiction from SOAH to the person with final
13 order authority. These changes are necessary to create similar processes for contested cases decided by
14 a final order authority as already exist for cases decided by the board.

15 **Subchapter F. Board Procedures in Contested Cases**

16 A proposed amendment to §224.190 would clarify that Subchapter F does not apply to a
17 contested case in which a SOAH administrative law judge has submitted a final proposal for decision for
18 consideration by the department in a case in which the department's Motor Carrier Division Director is
19 the final order authority as provided in proposed new §224.310. Although the department's Motor Carrier
20 Division Director is a board delegate under Chapter 224 for certain contested cases, Subchapter I of this
21 title (relating to Motor Carrier Division Director Procedures in Contested Cases) governs the procedures
22 for certain contested cases in which the department's Motor Carrier Division Director is the final order
23 authority.

1 A proposed amendment to §224.194 would remove subsection (b) because the executive
2 director, rather than the board, delegated final order authority to the department's Motor Carrier Division
3 Director for contested cases under Transportation Code, Chapter 643. Also, proposed new Subchapter I
4 would include language regarding a special public meeting during which the department's Motor Carrier
5 Division Director may review a contested case for which that director is the final order authority. A
6 proposed amendment to §224.194 would also remove the subsection letter for current subsection (a) due
7 to the proposed deletion of subsection (b).

8 Proposed amendments to §§224.198, 224.200, and 224.204 would implement SB 2807 by adding
9 a reference to the scope of the board's authority to act under Transportation Code, §545.459(k). Proposed
10 amendments to §§224.198, 224.200, and 224.204 would also modify language and punctuation due to
11 the proposed reference to Transportation Code, §545.459(k). In addition, a proposed amendment to
12 §224.200(a) would correct a grammatical error by changing the word "Chapter" to "Chapters."

13 **Subchapter H. Automated Motor Vehicle Authorizations**

14 Proposed amendments would implement SB 2807 by adding new Subchapter H regarding
15 automated motor vehicle authorization under Transportation Code, §545.456 and §545.459. Proposed
16 new §224.290 would provide the purpose and scope of proposed new Subchapter H for clarity.

17 Proposed new §224.292 would provide the procedures, authority, and requirements regarding
18 the suspension, revocation, or cancellation of an authorization under Transportation Code, §545.456(f),
19 as well as the rescission of a suspension, revocation, or cancellation under Transportation Code,
20 §545.456(g). A determination under Transportation Code, §545.456(f) is not a contested case under
21 Government Code, Chapter 2001, according to Transportation Code, §545.456(h), so proposed new
22 §224.292(a) would state that no other section in Chapter 224 applies to this section, other than §224.290
23 regarding the purpose and scope of Subchapter H. Proposed new §224.292(b) and (c) would require the

1 department to notify the authorization holder of certain actions by email because the word “immediately”
2 in Transportation Code, §545.456(f) and the word “promptly” in Transportation Code, §545.456(g) require
3 these processes to be done quickly. Proposed new §224.292(b) and (c) would also state that the action or
4 the rescission, respectively, is effective when the notice is emailed by the department to avoid any delay
5 to the process that mail might cause. Proposed new §224.292(d) would require the department to also
6 mail the notification to the authorization holder by first-class mail to ensure that the authorization holder
7 received notice. Proposed new §224.292(e) grants the department’s Motor Carrier Division Director the
8 authority to decide suspensions, revocations and cancellations under Transportation Code, §545.456(f)
9 and the rescissions of those same decisions under Transportation Code, §545.456(g). Proposed new
10 §224.292(f) and (g) clarify requirements for computation of time, aligning them with the requirements of
11 Government Code, §311.014 and defining the unit of measurement as calendar days rather than business
12 days.

13 Proposed new §224.292(h) and §224.294(l) would clarify that a reference in rule or in a
14 department communication to an “authorization holder” whose authorization is currently suspended,
15 revoked, or cancelled does not rescind or invalidate the suspension, revocation, or cancellation of the
16 authorization. Transportation Code, §545.456(d) states that an authorization does not expire, and it
17 remains active unless suspended, revoked, or canceled by the department. Also, Transportation Code,
18 §545.459(k) refers to an “authorization holder,” even though the authorization has been suspended,
19 revoked, or cancelled under subsection (h). In addition, the suspension, revocation, or cancellation of an
20 authorization may be rescinded under Transportation Code, §545.456(g) and §545.459(j).

21 Proposed new §224.294 would implement SB 2807 by providing the procedures, authority, and
22 requirements regarding the suspension, revocation, or cancellation of an authorization under
23 Transportation Code, §545.459, as well as the imposition of one or more restrictions on the operation of

1 the automated motor vehicle under Transportation Code, §545.459. Proposed new §224.294(a) would
2 state which subchapters in Chapter 224 apply to contested cases before SOAH and the board or the
3 department's Motor Carrier Division Director brought under Transportation Code, §545.459.

4 Proposed new §224.294(b) would specify that the notice of intent to sanction, required by
5 Transportation Code, §545.459(a) and (c) shall be sent by certified mail, return receipt requested so that
6 it can also serve as the notice to a licensee of an intended suspension, revocation, or cancellation required
7 by Government Code, §2001.054. Proposed new §224.294(b) would also require the department to send
8 the notice of intent by email to the authorization holder's email address on file in the department's
9 designated system, so the authorization holder receives notice as quickly as possible due to public safety
10 concerns as described in Transportation Code, §545.459(a) and (b).

11 Proposed new §224.294(c) would require the authorization holder to submit any request for an
12 extension on the department's deadline for corrective action and certification under Transportation Code,
13 §545.459(c)(2) and (e) to be submitted prior to the department's deadline listed in the department's
14 notice of intent. Proposed new §224.294(c) would also require the authorization holder's request for an
15 extension to include an explanation regarding why the department's deadline is not reasonable, why the
16 authorization holder needs more time (including the specific deadline the authorization holder is
17 requesting), and whether the authorization holder's requested deadline is likely to result in harm to the
18 public health, safety, or welfare. Automated motor vehicles are a new and evolving technology. The
19 authorization holder is in the best position to know about the automated motor vehicles that it operates
20 and the automated motor vehicle industry in general. The authorization holder is in the best position to
21 articulate its reasons for an extension on the department's deadline. A request for an extension after the
22 deadline has passed is not a reasonable request under Transportation Code, §545.459(e). The department
23 will only send a notice of intent if the department determines that an authorization holder's automated

1 motor vehicle is not in safe operational condition and the operation of the vehicle on a highway or street
2 in Texas endangers the public. When determining whether an authorization holder's request for an
3 extension is reasonable, the department must consider the public health, safety, and welfare. Although
4 the department will consider the nature of the issues the authorization holder must correct, it is
5 incumbent on the authorization holder to timely request an extension.

6 Proposed new §224.294(d) would require the department to send notice to the authorization
7 holder of a decision that suspended, revoked, or cancelled the authorization or imposed a restriction on
8 the operation of the automated motor vehicle by both email and first-class mail, to ensure that the
9 authorization holder is as likely as possible to actually receive the notice. The date of the decision issuance
10 would be the date the department sends the email, to avoid any delay or uncertainty that might arise
11 from waiting for the arrival of the regular mail. Proposed new §224.294(e) would specify that the
12 department will designate the address for the authorization holder to submit requests under
13 Transportation Code, §545.459 to extend the compliance period, for review of the decision, for removal
14 or rescission of a sanction, or for a hearing. This will allow the department flexibility in determining how
15 best to staff and monitor communications with authorization holders.

16 Proposed new §224.294(f) would allow the department to request proof that a representative
17 has authority to represent the authorization holder, to prevent confusion, miscommunication, or fraud.
18 Proposed new §224.294(g) would require authorization holders to electronically file certifications under
19 Transportation Code, §545.459(d) by following the requirements of §224.11, relating to Filing and Service
20 of Documents, to ensure uniform evidence of when and what was filed, as well as service to all parties
21 involved.

22 Proposed new §224.294(h) would make the department's Motor Carrier Division Director the
23 decision authority for determinations under Transportation Code, §545.459(g). Proposed new §224.294(i)

1 would also make the Motor Carrier Division Director the decision authority for final determinations under
2 Transportation Code, §545.459(h) following a timely request to review the decision, similar to the
3 exceptions process under Government Code, §2001.062 and SOAH rules. Proposed new §224.294(j)
4 would make the department's board the final order authority for contested cases under Transportation
5 Code, §545.459(k) when the SOAH administrative law judge issued a proposal for decision, but would
6 empower the Motor Carrier Division Director to make decisions regarding the recission of a sanction or
7 the removal of a restriction under Transportation Code, §545.459(j) to allow for faster decision-making in
8 those situations without the need to call a public meeting of the board.

9 Proposed new §224.294(k) would set the process the department will follow to dismiss the case
10 and notify the authorization holder if the SOAH hearing is not held within 60 days of the Motor Carrier
11 Division Director's final determination under Transportation Code, §545.459(h). Notice would be sent by
12 email for expediency in that situation. Proposed new §224.294(m) would exempt certifications or
13 communications regarding a recission or removal of a sanction under Transportation Code, §545.459(j)
14 from the filing requirements of §224.11(a) through (g), relating to Filing and Service of Documents, so that
15 the authorization holder could simply send the documents and request to the designated email address,
16 as prescribed by proposed new §224.294(e), to make the process as efficient and expedited as possible.

17 **Subchapter I. Motor Carrier Division Director Procedures in Contested Cases**

18 Proposed amendments would add new Subchapter I regarding contested cases for which the
19 department's director of the Motor Carrier Division is the final order authority, rather than the board.
20 Proposed new Subchapter I would include modified language from current Subchapter F, which addresses
21 board procedures in contested cases. Proposed new §224.310 would provide the purpose and scope of
22 proposed new Subchapter I.

1 Proposed new §224.312 would provide an overview of the process for the contested case review
2 by the department's final order authority, including the final order authority's discretion to schedule a
3 special public meeting to review the contested case. Public meetings may be appropriate in matters of
4 great public interest that do not require expedited decisions, but they will be inappropriate when a
5 decision is routine or must be made quickly to protect public health or safety.

6 Proposed sections throughout proposed new Subchapter I regarding a special public meeting
7 would only apply if the department's final order authority schedules a special public meeting. Proposed
8 new §224.314 would provide the procedure and deadlines regarding a request for oral presentation, if
9 there is a special public meeting. Proposed new §224.314(a) would require the department to provide
10 notice by email to the parties 20 days before a special public meeting, to allow the parties time to prepare
11 any oral presentations and written materials for the special public meeting. Proposed new §224.314(b)
12 would require a party to notify the department and all other parties of its intent to make an oral
13 presentation at least seven days in advance of the meeting, to allow both the parties and the department
14 time to prepare accordingly. Proposed new §224.314(c) would allow parties that are not affected by the
15 proposal for decision to have flexibility to agree to the order of their presentations, but would set the
16 order of presentations in proposed new §224.320, relating to Order of Oral Presentations to the Final
17 Order Authority, as the default order if the parties do not file their agreed order of presentations at the
18 same time they file their intent to make oral presentation under proposed new §224.314(b). Proposed
19 new §224.314(d) would clarify that a party that fails to make a timely written request for oral presentation
20 under proposed new §224.314(b) will not be allowed to present at the special public meeting, to ensure
21 predictability in procedure during the meeting and an opportunity for all parties to prepare in advance of
22 the meeting. Proposed new §224.314(e) would specify that there would be no public comment at special
23 public meetings and that non-parties would not be allowed to give oral presentations. This would prevent

1 extraneous information that is not in the SOAH record from influencing the final order authority in
2 violation of Government Code, Chapter 2001, and would allow for more efficient meetings.

3 Proposed new §224.316 would provide the procedure and deadline for the provision of written
4 materials for a special public meeting. Proposed new §224.316(a) would require a party that wants to
5 provide written materials to the final order authority at a special public meeting to file them with the
6 department at least 14 days prior to the meeting and provide copies to the other parties. This would allow
7 both the parties and the department adequate time to prepare in advance of the special meeting.
8 Proposed new §224.316(b) would specify that written materials can only contain information from the
9 SOAH record, so as to avoid exposing the final order authority to information that is not in the SOAH
10 record from influencing the final order authority in violation of Government Code, Chapter 2001. Similarly,
11 proposed new §224.316(e) would specify that non-parties are not authorized to provide written materials,
12 to prevent extraneous information that is outside the SOAH record from influencing the final order
13 authority. Proposed new §224.316(c) would require the parties to provide citations to the SOAH record
14 for all written materials, so that the parties and the department can verify that the written materials are
15 all within the SOAH record. Proposed new §224.316(d) would set size, font, and page count limitations for
16 the written materials, to require parties to streamline their documentary presentations so that the
17 presentations during the special public meeting are both efficient and effective.

18 Proposed new §224.318 would provide the requirements for an oral presentation at a special
19 public meeting. Proposed new §224.318(a) would limit oral presentations to information within the SOAH
20 record and to the scope of the final order authority's powers under Government Code, §2001.058(e), so
21 as to prevent the final order authority from violating Government Code, Chapter 2001 by relying on
22 evidence that is not in the record or taking action that is not within the department's jurisdiction.
23 Proposed new §224.318(b) would allow a party during oral presentation to recommend that the final

1 order authority remand the case to SOAH, to the extent allowed under the SOAH rules in 1 TAC Chapter
2 155 and Government Code, Chapter 2001. Remand to SOAH can be necessary when the administrative
3 law judge failed to make findings regarding specific allegations. Proposed new §224.318(c) would require
4 the parties to object when another party goes outside the SOAH record, so that the final order authority
5 will be able to identify and disregard information that is outside the record. Proposed new §224.318(d)
6 would set a 15-minute time limit for each party's oral presentation, clarify that additional rebuttal
7 statements or a closing statement are not allowed, and clarify that time spent responding to questions or
8 making objections does not count against the 15 minutes. These guidelines would ensure that oral
9 presentations in special public meetings proceed efficiently but fairly.

10 Proposed new §224.320 would provide the order of presentation for an oral presentation at a
11 special public meeting. Proposed new §224.320(a) would require the department to provide a
12 presentation of the procedural history and summary of the contested case. Proposed new §224.320(b)
13 would require that the adversely affected party present first, but allows the final order authority to
14 determine the order of presentations if it is not clear which party is adversely affected or if it appears that
15 there is more than one adversely affected party. This would parallel the current order of presentation for
16 parties making an oral presentation at board meetings under §224.202, regarding Order of Oral
17 Presentations to the Board. Proposed new §224.320(c) would require the parties that are not adversely
18 affected to present in alphabetical order, assuming they had not previously agreed to an order under
19 proposed new §224.314.

20 Proposed new §224.322 would describe the final order authority's conduct and the limits on any
21 discussions when reviewing a contested case. Proposed new §224.322(a) would specify the legal
22 limitations of the final order authority's review. Proposed new §224.322(b) would allow the final order
23 authority to ask the parties questions, but only within the relevant legal limitations. Proposed new

1 §224.322(c) would allow the final order authority to use personal expertise in the industry in deciding a
2 contested case, but only within the relevant legal limitations. Proposed new §224.322 would provide
3 clarity and ease of reference for parties and the final order authority alike regarding the laws that apply
4 to and limit the final order authority's review of the proposal for decision.

5 Proposed new §224.324 would provide the requirements regarding a final order issued by the
6 department's director of the Motor Carrier Division under proposed new Subchapter I. Proposed new
7 §224.324(a) would require that the final decision from the final order authority be in writing and signed,
8 in keeping with the requirements of Government Code, §2001.141(a). Proposed new §224.324(b) would
9 require the department to email and send by certified mail the final order to the parties in the contested
10 case, to maximize the opportunities for the parties to receive notice of the decision and allow the
11 department to ascertain whether and on what date an impacted party received the decision for purposes
12 of Government Code, §2001.142(c). Proposed new §224.324(c) and (d) would clarify that the Government
13 Code governs the issuance of a final order by the final order authority, the parties' motions for rehearing,
14 and when the decision becomes final.

15 Proposed new §224.326 would address public access to a special public meeting. Proposed new
16 §224.326 would contain modified versions of portions of 43 TAC §206.22, regarding Public Access to Board
17 Meetings, which only applies to board meetings. Proposed new §224.326(a) would require persons in
18 need of special accommodations who plan to attend the special public meeting to send a request to the
19 department two days in advance, to allow the department time to arrange the accommodation.
20 Proposed new §224.326(b) would specify that members of the public may not question parties or the final
21 order authority in a contested case, to maintain decorum in the meeting and to avoid exposing the final
22 order authority to information that is outside the SOAH record. Proposed new §224.326(c) would require

1 a person who disrupts a special public meeting to leave the premises, to maintain decorum and safety in
2 the meeting.

3 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer,
4 has determined that for each year of the first five years the amendments and new sections will be in
5 effect, there will be no significant fiscal impact to state or local governments as a result of the enforcement
6 or administration of the proposal. Corrie Thompson, Director of the Enforcement Division (ENF), has
7 determined that there will be no significant impact on local employment or the local economy as a result
8 of the proposal.

9 **PUBLIC BENEFIT AND COST NOTE.** Ms. Thompson has also determined that, for each year of the first five
10 years that the amended and new sections are in effect, there is an anticipated public benefit because the
11 proposal provides clarity for the regulated industries that are governed by these provisions, and negligible
12 associated costs to comply.

13 Anticipated Public Benefits. The public benefit anticipated as a result of the proposal includes
14 clarity for the regulated industries regarding the procedures, requirements, and restrictions regarding the
15 matters governed by this proposal.

16 Anticipated Costs to Comply with the Proposal. Ms. Thompson anticipates that there will be no
17 significant costs to comply with this proposal. The department has drafted the rules so as to eliminate
18 cost by allowing authorization holders to use online document filing and email as service for requests
19 rather than mail.

20 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government
21 Code, §2006.002, the department has determined that the proposed new sections and amendments will
22 not have an adverse economic effect on small businesses, micro-businesses, and rural communities

1 because the requirements are minimal. Therefore, the department is not required to prepare a regulatory
2 flexibility analysis under Government Code, §2006.002.

3 **TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property interests
4 are affected by this proposal and that this proposal does not restrict or limit an owner's right to property
5 that would otherwise exist in the absence of government action and, therefore, does not constitute a
6 taking or require a takings impact assessment under Government Code, §2007.043.

7 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the
8 first five years the proposed amendments and new sections are in effect, a government program would
9 be created to implement Senate Bill 2807. Implementation of the proposed amendments and new
10 sections would not require the creation of new employee positions or elimination of existing employee
11 positions. Implementation would not require an increase or decrease in future legislative appropriations
12 to the department or an increase or decrease of fees paid to the department. The proposed amendments
13 and new sections create new regulations to implement Senate Bill 2807, and expand an existing regulation
14 to provide the procedures in certain contested cases for which the director of the department's Motor
15 Carrier Division is the final order authority, rather than the board. The proposed rules would not limit or
16 repeal regulations. Lastly, the proposed amendments and new sections do not affect the number of
17 individuals subject to the rule's applicability and will not affect this state's economy.

18 **REQUEST FOR PUBLIC COMMENT.**

19 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CDT on August 25,
20 2025. A request for a public hearing must be sent separately from your written comments. Send written
21 comments or hearing requests by email to rules@txdmv.gov or by mail to Office of General Counsel, Texas
22 Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the
23 department will consider written comments and public testimony presented at the hearing.

SUBCHAPTER A. GENERAL PROVISIONS.

STATUTORY AUTHORITY. The department proposes amendments under Transportation Code, §545.453, which authorizes the board to adopt rules that are necessary to administer Subchapter J of Chapter 545 of the Transportation Code; 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, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department; Transportation Code, §1003.005, which authorizes the board by rule to delegate any power relating to a contested case, including the power to issue a final order, to certain department staff; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The proposed amendments would implement Transportation Code, Chapter 545, Subchapter J; §1002.001, and §1003.005; and Government Code, Chapter 2001.

Text.

§224.1. Purpose and Scope.

This subchapter describes the procedures by which the department will adjudicate a contested case arising under Occupations Code, Chapters 2301 or 2302; ~~[-or]~~ Transportation Code, Chapters 502, 503, 621-623, 643, 645, or 1001-1005; or Transportation Code, §545.459(k),

consistent with the requirements of Government Code, Chapter 2001. Unless expressly excluded or limited, this subchapter applies to every contested case in which the department has jurisdiction.

§224.5. Prohibited Communication.

(a) No person, party, attorney of record, or authorized representative in any contested case shall violate Government Code, §2001.061 by directly or indirectly engaging in ex parte communication concerning a contested case with an ALJ, board member, board delegate, final order authority, or a hearings examiner assigned to render a decision or make findings of fact and conclusions of law in a contested case.

(b) Unless prohibited by Government Code, §2001.061, department staff who did not participate in the hearing may advise a board member, a board delegate, a final order authority, or a hearings examiner, regarding a contested case and any procedural matters.

(c) Department staff shall not recommend a final decision to the board unless the department is a party to the contested case.

(d) A violation of this section shall be promptly reported to the board chair or chief hearings examiner, as applicable, and the general counsel of the department.

(e) The general counsel shall ensure that a copy or summary of the ex parte communication is included with the record of the contested case and that a copy is forwarded to all parties or their authorized representatives.

(f) The general counsel may take any other appropriate action otherwise provided by law.

§224.27. Final Order; Motion for Rehearing.

(a) The provisions of Government Code, Chapter 2001, Subchapter F, govern the issuance of

1 a final order issued under this subchapter and a motion for rehearing filed in response to a final
2 order.

3 (b) Except as provided by subsection (c) of this section and §224.29 of this title (relating to
4 Delegation of Final Order Authority), the board has final order authority in a contested case filed
5 under Occupations Code, Chapters 2301 or 2302; ~~[-or under]~~ Transportation Code, Chapters 502,
6 503, 621-623, 643, 645, and 1001-1005; or Transportation Code, §545.459(k).

7 (c) The hearings examiner has final order authority in a contested case filed under
8 Occupations Code, §2301.204 or Occupations Code Chapter 2301, Subchapter M.

9 (d) A department determination and action denying access to the license plate system
10 becomes final within 26 days of the date of the notice denying access to a database, unless the
11 dealer:

12 (1) requests a hearing regarding the denial of access, or

13 (2) enters into a settlement agreement with the department.

14 (e) Unless a timely motion for rehearing is filed with the appropriate final order authority as
15 provided by law, an order shall be deemed final and binding on all parties. All administrative
16 remedies are deemed to be exhausted as of the effective date of the final order.

17 (f) If a timely motion for rehearing is not filed, the final order shall be deemed final and
18 binding in accordance with the provisions of Government Code, §2001.144.

19 (g) If a final and binding order includes an action on a license, the department may act on
20 the license on the date the final order is deemed final and binding, unless the action is stayed by a
21 court order.

22
23 §224.29. Delegation of Final Order Authority.

(a) In accordance with Occupations Code, §2301.154(c) and Transportation Code, §1003.005(b), except as provided by subsection (b) of this section, the director of the division that regulates the distribution and sale of motor vehicles is authorized to issue, where there has not been a decision on the merits, a final order in a contested case under Subchapters B and C, including, but not limited to a contested case resolved:

(1) by settlement;

(2) by agreed order;

(3) by withdrawal of the complaint;

(4) by withdrawal of a protest;

(5) by dismissal for want of prosecution including:

(A) failure of a complaining or protesting party to participate in scheduling mediation or to appear at mediation as required under Subchapter C of this chapter (relating to Contested Cases Between Motor Vehicle Industry License Holders or Applicants);

(B) failure of a complaining or protesting party to respond to department requests for information or scheduling matters;

(C) failure of a complaining or protesting party to dismiss a contested case that has been resolved by the parties;

(6) by dismissal for want of jurisdiction;

(7) by summary judgment or summary disposition;

(8) by default judgment; or

(9) when a party waives opportunity for a contested case hearing.

(b) In accordance with Occupations Code, §2301.704 and §2301.711, a hearings examiner is authorized to issue a final order in a contested case brought under Occupations Code, §2301.204 or

§§2301.601-2301.613.

(c) In accordance with Transportation Code, §1003.005, the director of the department's Motor Carrier Division is delegated ~~[any power relating to a contested case, including]~~ the authority to issue a final order[,] in contested cases under Subchapter D of this chapter to the extent that delegation of such authority is not already provided under Transportation Code, §643.001(2). ~~[by statute.]~~

(d) In accordance with Transportation Code, §1003.005, the director of the department's Motor Carrier Division is authorized to issue a final order in a contested case under §224.294 of this title (relating to Suspension, Revocation, or Cancellation of Automated Motor Vehicle Authorization under Transportation Code, §545.459) when:

(1) a SOAH ALJ has not submitted a proposal for decision to the department for consideration by the final order authority; or

(2) a SOAH ALJ submits a proposal for decision regarding a default proceeding to the department for consideration by the final order authority.

(e) ~~[(d)]~~ In a contested case in which the board has delegated final order authority under subsection (a), (c) or (d) ~~[or (e)]~~ of this section, a motion for rehearing shall be filed with and decided by the final order authority delegate.

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

ENFORCEMENT

STATUTORY AUTHORITY. The department proposes amendments under Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and

1 requirements of all available formal and informal procedures; Transportation Code, §502.0021, which
2 authorizes the department to adopt rules to administer Transportation Code, Chapter 502;
3 Transportation Code, §502.091(b), which authorizes the department to adopt and enforce rules to
4 carry out IRP; Transportation Code, §621.008, which authorizes the board to adopt rules that are
5 necessary to implement and enforce Transportation Code, Chapter 621; Transportation Code,
6 §622.002, which authorizes the board to adopt rules that are necessary to implement and enforce
7 Transportation Code, Chapter 622; Transportation Code, §623.002, which authorizes the board to
8 adopt rules that are necessary to implement and enforce Transportation Code, Chapter 623;
9 Transportation Code, §643.003, which authorizes the department to adopt rules to administer
10 Transportation Code, Chapter 643; Transportation Code, §643.2526, which authorizes an applicant to
11 appeal the denial of an application for registration, renewal of registration, or reregistration under
12 Transportation Code, Chapter 643, and which authorizes a motor carrier to appeal the revocation or
13 suspension of a registration or placement on probation of the motor carrier as requested by the Texas
14 Department of Public Safety under Transportation Code, §643.252(b); Transportation Code,
15 §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to
16 implement the powers and duties of the department; Transportation Code, §1003.001, which states
17 that the department is subject to Government Code, Chapter 2001, except as specifically provided by
18 law; Transportation Code, §1003.005, which authorizes the board by rule to delegate any power
19 relating to a contested case, including the power to issue a final order, to certain department staff;
20 and the statutory authority referenced throughout this preamble and in the rule text, which is
21 incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The proposed amendments would implement Government Code, Chapter 2001; and Transportation Code, Chapters 502, 621, 622, 623, 643, and 645; Transportation Code, §§1002.001, 1003.001, and 1003.005.

Text.

§224.110. Purpose and Scope.

This subchapter and Subchapters A, E, and ~~I~~ [F] of this chapter describe the procedures by which the department will adjudicate alleged violations and claims under Transportation Code, Chapters 502, 621-623, 643, and 645. These contested cases involve registrants under the International Registration Plan, motor carriers, motor carrier leasing businesses, motor transportation brokers, and household goods carriers. Contested cases involving persons operating oversize or overweight vehicles or moving oversize or overweight loads are also included.

SUBCHAPTER E. CONTESTED CASES REFERRED TO SOAH

STATUTORY AUTHORITY. The department proposes amendments under Transportation Code, §545.453, which authorizes the board to adopt rules that are necessary to administer Subchapter J of Chapter 545 of the Transportation Code; 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, §502.0021, which authorizes the department to adopt rules to administer Transportation Code, Chapter 502; Transportation Code, §502.091(b), which authorizes the department to adopt and enforce rules to carry out IRP; Transportation Code, §621.008, which

1 authorizes the board to adopt rules that are necessary to implement and enforce Transportation
2 Code, Chapter 621; Transportation Code, §622.002, which authorizes the board to adopt rules that
3 are necessary to implement and enforce Transportation Code, Chapter 622; Transportation Code,
4 §623.002, which authorizes the board to adopt rules that are necessary to implement and enforce
5 Transportation Code, Chapter 623; Transportation Code, §623.271, which states that the notice and
6 hearing requirements under Transportation Code, §643.2525 apply to the imposition of an
7 administrative penalty or the revocation of a permit under §623.271; Transportation Code, §623.272,
8 which states that the notice and hearing requirements under Transportation Code, §643.2525 apply
9 to the imposition of an administrative penalty under §623.272; Transportation Code, §643.003, which
10 authorizes the department to adopt rules to administer Transportation Code, Chapter 643;
11 Transportation Code, §643.2525, which provides the process for an administrative hearing under
12 Transportation Code, Chapter 643; Transportation Code, §643.2526, which authorizes an applicant to
13 appeal the denial of an application for registration, renewal of registration, or reregistration under
14 Transportation Code, Chapter 643, and which authorizes a motor carrier to appeal the revocation or
15 suspension of a registration or placement on probation of the motor carrier as requested by the Texas
16 Department of Public Safety under Transportation Code, §643.252(b); Transportation Code,
17 §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to
18 implement the powers and duties of the department; Transportation Code, §1003.001, which states
19 that the department is subject to Government Code, Chapter 2001, except as specifically provided by
20 law; Transportation Code, §1003.005, which authorizes the board by rule to delegate any power
21 relating to a contested case, including the power to issue a final order, to certain department staff;
22 and the statutory authority referenced throughout this preamble and in the rule text, which is
23 incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The proposed amendments would implement Transportation Code, Chapter 545, Subchapter J; Transportation Code, Chapters 621, 622, 623, 643, and 645; Transportation Code, §§502.091(b), 1002.001, 1003.001, and 1003.005; and Government Code, Chapter 2001.

Text.

§224.150. Purpose and Scope.

(a) This subchapter describes department practice and procedures for referring a contested case to SOAH for a hearing, including a contested case under Subchapter B (relating to Motor Vehicle, Salvage Vehicle, and Trailer Industry Enforcement), Subchapter C (relating to Contested Cases Between Motor Vehicle Industry License Holders or Applicants), and Subchapter D (Motor Carrier and Oversize or Overweight Vehicle or Load Enforcement) of this chapter, as well as §224.294 of this title (relating to Suspension, Revocation, or Cancellation of Automated Motor Vehicle Authorization under Transportation Code, §545.459).

(b) When SOAH accepts a referral from the department, jurisdiction of the contested case transfers to SOAH, and practice and procedure in contested cases heard by SOAH are addressed in:

(1) 1 TAC Chapter 155, and

(2) subchapter A and this subchapter, where not in conflict with SOAH rules.

(c) When SOAH disposes of a contested case, jurisdiction transfers from SOAH back to the department. The department will issue a final order under §224.29 of this title (relating to Delegation of Final Order Authority), ~~under~~ under Subchapter F of this chapter (relating to Board

Procedures in Contested Cases), or under Subchapter I of this chapter (relating to Motor Carrier Division Director Procedures in Contested Cases).

§224.152. Referral to SOAH.

(a) The department shall refer contested cases to SOAH upon determination that a hearing is appropriate under Occupations Code, Chapter 2301 or 2302; ~~[, or]~~ Transportation Code, Chapters 502, 503, 621-623, 643, 645, or 1001-1005; or Transportation Code, §545.459(k), including contested cases relating to:

(1) an enforcement complaint on the department's own initiative;

(2) a notice of protest that has been timely filed in accordance with §215.106 of this title (relating to Time for Filing Protest);

(3) a protest filed under Occupations Code, §2301.360 or a protest or complaint filed under Occupations Code, Chapter 2301, Subchapters I or J;

(4) a department-issued cease and desist order; or

(5) any other contested matter that meets the requirements for a hearing at SOAH.

(b) The department will follow SOAH procedures to file a Request to Docket Case and related documents and request a setting of a hearing.

(c) SOAH will provide the department with the date, time, and place of the initial hearing.

§224.164. Issuance of a Proposal for Decision.

(a) After a hearing on the merits, the ALJ shall submit a proposal for decision in a contested case to the department and all parties.

(b) The parties may submit to the ALJ exceptions to the proposal for decision and replies to exceptions to the proposal for decision in accordance with the SOAH rules.

(c) The ALJ will review all exceptions and replies and notify the department and parties whether the ALJ recommends any changes to the proposal for decision.

(d) The parties are not entitled to file exceptions or briefs in response to a final ~~an amended~~ proposal for decision but may raise an issue regarding the final proposal for decision before the following:

(1) the board as allowed at the time of oral presentation under Subchapter F of this chapter; or

(2) the final order authority as allowed at the time of an oral presentation at a special public meeting, if any, under Subchapter I of this chapter (relating to Motor Carrier Division Director Procedures in Contested Cases).

§224.166. Transfer of Jurisdiction for Final Decision.

(a) A party may appeal an interlocutory order issued under Occupations Code, Chapter 2301 to the board under §224.192 of this title (relating to Appeal of an Interlocutory Order). SOAH retains jurisdiction on all other pending matters in the contested case, except as provided otherwise in this chapter.

(b) If a contested case includes a hearing on the merits, SOAH's jurisdiction transfers to the board or other final order authority when the ALJ confirms that the proposal for decision is final.

(c) Once jurisdiction transfers, no new testimony, witnesses, or information may be considered by the board or board delegate with final order authority.

(d) After SOAH transfers the SOAH administrative record to the department, the board or the department's director of the Motor Carrier Division ~~[or board delegate with final order authority]~~ will consider the contested case under the provisions of Subchapter F of this chapter (relating to Board Procedures in Contested Cases) or Subchapter I of this chapter (relating to Motor Carrier Division Director Procedures in Contested Cases).

SUBCHAPTER F. BOARD PROCEDURES IN CONTESTED CASES

STATUTORY AUTHORITY. The department proposes amendments under Transportation Code, §545.453, which authorizes the board to adopt rules that are necessary to administer Subchapter J of Chapter 545 of the Transportation Code; 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, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department; Transportation Code, §1003.001, which states that the department is subject to Government Code, Chapter 2001, except as specifically provided by law; Transportation Code, §1003.005, which authorizes the board by rule to delegate any power relating to a contested case, including the power to issue a final order,

1 to certain department staff; and the statutory authority referenced throughout this preamble and in
2 the rule text, which is incorporated herein by reference.

3 **CROSS REFERENCE TO STATUTE.** The proposed amendments would implement Transportation
4 Code, Chapter 545, Subchapter J; Transportation Code, §§1002.001, 1003.001, and 1003.005; and
5 Government Code, Chapter 2001.

6
7 Text.

8 §224.190. Purpose and Scope.

9 This subchapter describes procedures for the board to review and issue a final order in a
10 contested case in which:

11 (1) a SOAH ALJ has submitted a final proposal for decision for consideration by the
12 board or board delegate with final order authority, except as stated otherwise in §224.310 of this
13 title (relating to Purpose and Scope),

14 (2) a party has appealed an interlocutory cease-and-desist order issued by an ALJ, or

15 (3) a party affected by a statutory stay order issued by an ALJ requested a hearing to
16 modify, vacate, or clarify the extent and application of the statutory stay order.

17
18 §224.194. Contested Case Review.

19 ~~[(a)]~~ After SOAH submits a final proposal for decision and transfers SOAH's administrative
20 record to the department, the board has jurisdiction and the record required to issue a final order

1 and will review the contested case during the public session of a board meeting, in accordance with
2 the APA.

3 ~~[(b) For a contested case in which the board has delegated final order authority to the~~
4 ~~Director of the Motor Carrier Division, a special public meeting may be scheduled.]~~

5
6 §224.198. Written Materials and Evidence.

7 (a) If a party wants to provide written materials at the board meeting, the party must
8 provide the written materials to the department and all other parties in accordance with §224.11 of
9 this title (relating to Filing and Service of Documents) at least 21 days prior to the date of the board
10 meeting. If a party fails to timely provide written materials to the department or any other party, the
11 department shall not provide the written materials to the board and the party shall not provide the
12 written materials to the board at the board meeting. Non-parties are not authorized to provide
13 written materials to the board.

14 (b) For the purposes of this section, written materials are defined as language or images
15 including photographs or diagrams, that are contained in the SOAH administrative record and
16 recorded in paper form except as stated otherwise in this subsection. The language or images in the
17 written materials must be taken without changes from the SOAH administrative record; however,
18 proposed final orders and draft motions for possible board action are allowed to be included in a
19 party's written materials even if they contain arguments or requests that are not contained in the
20 SOAH administrative record. Written materials shall be limited to evidence contained in the SOAH
21 administrative record and consistent with the scope of the board's authority to act under
22 Government Code, §2001.058(e); ~~and~~ Occupations Code, Chapters 2301 and 2302; ~~and~~

Transportation Code, Chapters 502, 503, 621-623, 643, 645, or 1001-1005; and Transportation Code, §545.459(k), as applicable.

(c) All information in the written materials shall include a citation to the SOAH administrative record on all points to specifically identify where the information is located. The citations may be provided in an addendum to the written materials that is not counted against the 15-page limit under subsection (d) of this section; however, the addendum must not include any information other than a heading that lists the name of the party, the caption for the contested case, and text that lists the citations and page numbers.

(d) Written materials shall be 8.5 inches by 11 inches and single-sided. Written materials must be double-spaced and at least 12-point type if in text form. Written materials are limited to 15 pages per party. If a party provides the department with written materials that contain more pages than the maximum allowed, the department shall not provide the written materials to the board and a party shall not provide the written materials to the board at the board meeting.

§224.200. Oral Presentation Limitations and Responsibilities.

(a) A party to a contested case under review by the board shall limit oral presentation and discussion to evidence in the SOAH administrative record. Also, oral presentation and discussion shall be consistent with the scope of the board's authority to act under Government Code, §2001.058(e); Occupations Code, Chapters 2301 and 2302; ~~[and]~~ Transportation Code Chapters ~~[Chapter]~~ 502, 503, 621-623, 643, 645, or 1001-1005; and Transportation Code, §545.459(k), as applicable.

(b) A party may argue that the board should remand the contested case to SOAH.

(c) Each party is responsible for objecting when another party attempts to make arguments or engage in discussion regarding evidence that is not contained in the SOAH administrative record.

(d) A party's presentation to the board is subject to the following limitations and conditions:

(1) Each party shall be allowed a maximum of 15 minutes for their oral presentation. The board chair may increase this time.

(2) No party is allowed to provide a rebuttal or a closing statement.

(3) An intervenor of record from the SOAH proceeding supporting another party shall share that party's time.

(4) Time spent by a party responding to a board question is not counted against their presentation time.

(5) During an oral presentation, a party to the contested case before the board may object that a party presented material or argument that is not in the SOAH administrative record. Time spent discussing such objections is not counted against the objecting party's time.

§224.204. Board Conduct and Discussion When Reviewing a Contested Case or Interlocutory Order.

(a) The board shall conduct its contested case review in compliance with Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2302; ~~and~~ Transportation Code Chapters 502, 503, 621, 623, 643, 645, or 1001-1005; and Transportation Code, §545.459(k), as applicable, including the limitations on changing a finding of fact or conclusion of law made by a SOAH ALJ, and the prohibition on considering evidence outside of the SOAH administrative record.

(b) A board member may question a party or the department on any matter that is relevant to the proposal for decision; however, a question shall be consistent with the scope of the board's authority to take action under Government Code, §2001.058(e); Occupations Code, Chapters 2301 and 2302; ~~and~~ Transportation Code, Chapters 502, 503, 621-623, 643, 645, or 1001-1005; and Transportation Code, §545.459(k), as applicable; a question must be limited to evidence contained in the SOAH administrative record; and the communication must comply with §224.5 of this title (relating to Prohibited Communication). In considering a contested case, a board member is authorized to ask a question regarding a request to remand the case to SOAH, including a remand to SOAH for further consideration of the evidence.

(c) A board member may use personal expertise in the industry to understand a contested case and make effective decisions, consistent with the scope of the board's authority to act under Government Code, §2001.058(e); Occupations Code, Chapters 2301 and 2302; ~~and~~ Transportation Code Chapters 502, 503, 621-623, 643, 645, or 1001-1005; and Transportation Code, §545.459(k), as applicable. However, a board member is not an advocate for a particular industry. A board member is an impartial public servant who takes an oath to preserve, protect, and defend the Constitution and laws of the United States and Texas.

SUBCHAPTER H. AUTOMATED MOTOR VEHICLE AUTHORIZATIONS

STATUTORY AUTHORITY. The department proposes new sections under Transportation Code, §545.453, which authorizes the board to adopt rules that are necessary to administer Subchapter J of Chapter 545 of the Transportation Code; 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; 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; Transportation Code, §1003.001, which states that the department is subject to Government Code, Chapter 2001, except as specifically provided by law; Transportation Code, §1003.005, which authorizes the board by rule to delegate any power relating to a contested case, including the power to issue a final order, to certain department staff; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The proposed new sections would implement Transportation Code, Chapter 545, Subchapter J; Transportation Code, §§1002.001, 1003.001, and 1003.005; and Government Code, Chapter 2001.

Text.

§224.290. Purpose and Scope.

This subchapter prescribes the procedures for:

(1) the suspension, revocation, or cancellation of an automated motor vehicle authorization issued under Transportation Code, §545.456;

(2) the imposition of a restriction on the operation of the automated motor vehicle under Transportation Code, §545.459;

(3) the rescission of a suspension, revocation, or cancellation of an automated motor vehicle authorization under Transportation Code, §545.456 or §545.459; and

1 (4) the removal of a restriction on the operation of the automated motor vehicle
2 under Transportation Code, §545.459.

3
4 §224.292. Immediate Suspension, Revocation, or Cancellation of an Automated Motor Vehicle
5 Authorization under Transportation Code, §545.456(f).

6 (a) No other section in this chapter applies to a suspension, revocation, or cancellation of an
7 automated motor vehicle authorization under Transportation Code, §545.456(f), except for §224.290
8 of this title (relating to Purpose and Scope).

9 (b) The department may immediately suspend, revoke, or cancel an automated motor
10 vehicle authorization under Transportation Code, §545.456(f) by sending notice to the authorization
11 holder's email address on file in the department's designated system referenced in §220.23 of this
12 title (relating to Application Requirements). The action described in the notice is effective when the
13 notice is emailed by the department.

14 (c) The department shall promptly notify the authorization holder of a rescission of a
15 suspension, revocation, or cancellation of an automated motor vehicle authorization under
16 Transportation Code, §545.456(g) by sending notice to the authorization holder's email address on
17 file in the department's designated system referenced in §220.23 of this title. The rescission
18 described in the notice is effective when the notice is emailed by the department.

19 (d) In addition to emailing a notice to the authorization holder under this section, the
20 department shall also mail a notice to an authorization holder by first-class mail using the authorization
21 holder's mailing address on file in the department's designated system referenced in §220.23 of this
22 title.

1 (e) The director of the department’s Motor Carrier Division is authorized to make the decisions
2 under this section regarding a suspension, revocation, cancellation, or rescission.

3 (f) Any time period prescribed or allowed by this section or by any applicable statute regarding
4 this section shall be computed in accordance with Government Code, §311.014.

5 (g) Time under this section shall be computed using calendar days rather than business days,
6 unless otherwise specified in statute.

7 (h) A reference in rule or a department communication to an “authorization holder” whose
8 authorization is currently suspended, revoked, or cancelled does not rescind or invalidate the
9 suspension, revocation or cancellation of the authorization.

10
11 §224.294. Suspension, Revocation, or Cancellation of Automated Motor Vehicle Authorization under
12 Transportation Code, §545.459.

13 (a) Subchapters A, E, F, and I of this chapter apply to a suspension, revocation, or
14 cancellation of an authorization under Transportation Code, §545.459, and the imposition of one or
15 more restrictions on the operation of the automated motor vehicle under Transportation Code,
16 §545.459.

17 (b) The department shall send the notice of intent required under Transportation Code,
18 §545.459(a) and (c) to the authorization holder by certified mail, return receipt requested consistent
19 with Government Code, §2001.054. The department shall also send the notice of intent to the
20 authorization holder’s email address on file in the department’s designated system referenced in
21 §220.23 of this title (relating to Application Requirements).

1 (c) Any request for an extension on the department’s deadline for corrective action and
2 certification under Transportation Code, §545.459(c)(2) and (e) must be submitted prior to the
3 department’s deadline listed in the department’s notice of intent and must contain an explanation
4 regarding the following:

5 (1) why the department’s deadline is not reasonable;
6 (2) why the authorization holder needs more time, and the specific deadline the
7 authorization holder is requesting; and
8 (3) whether the authorization holder’s requested deadline is likely to result in harm
9 to the public health, safety, or welfare.

10 (d) The department shall promptly provide notice to the authorization holder of the
11 department’s action under this section and Transportation Code, §545.459, using the authorization
12 holder’s email address on file in the department’s designated system referenced in §220.23 of this
13 title, except as otherwise provided by statute or rule, including §224.154 of this title (relating to
14 Notice of Hearing) and §224.206 of this title (relating to Final Orders). The department shall also
15 promptly mail such notice by first-class mail to an authorization holder using the authorization
16 holder’s mailing address on file in the department’s designated system referenced in §220.23. The
17 date the department emails a decision or final determination is the date the department issues a
18 decision or final determination for the purposes of Transportation Code, §545.459(g), (h), and (i), as
19 applicable.

20 (e) The authorization holder shall submit any requests to the department under
21 Transportation Code, §545.459 to the designated address listed in the department’s notice to the
22 authorization holder.

1 (f) A representative of an authorization holder may be required to provide written proof to the
2 department of authority to act on behalf of the authorization holder.

3 (g) An authorization holder shall electronically file any certification under Transportation Code,
4 §545.459(d) in the department’s designated system and include an authorized signature on the
5 certification, in accordance with §224.11 of this title (relating to Filing and Service of Documents).

6 (h) The director of the department’s Motor Carrier Division is authorized to issue a decision
7 under Transportation Code, §545.459(g).

8 (i) The director of the department’s Motor Carrier Division shall review the decision and
9 issue a final determination under Transportation Code, §545.459(h) if the authorization holder
10 timely submits a written request to the department for review.

11 (j) Except as otherwise provided under §224.29 of this title (relating to Delegation of Final
12 Order Authority), the board has final order authority in a contested case under Transportation Code,
13 §545.459(k). However, the director of the department’s Motor Carrier Division shall take the actions
14 required under Transportation Code, §545.459(j) regarding the rescission of a suspension,
15 revocation, or cancellation, or the removal of a restriction, regardless of whether the board issued
16 the final order.

17 (k) If a hearing is not timely held as required by Transportation Code, §545.459(k), the
18 department shall take the following actions:

19 (1) request the State Office of Administrative Hearings to dismiss the contested case;
20 and

21 (2) promptly notify the authorization holder that the authorization is automatically
22 reinstated and that any restriction is automatically removed, using the authorization holder’s email
23 address on file in the department’s designated system referenced in §220.23 of this title.

(l) A reference to an “authorization holder” in rule or department communication whose authorization is currently suspended, revoked, or cancelled does not rescind or invalidate the suspension, revocation, or cancellation of the authorization.

(m) Unless otherwise requested by the department in writing, §224.11(a) through (g) of this title do not apply to a certification or communication from the authorization holder to the department regarding the following under Transportation Code, §545.459(j):

(1) a potential rescission of a suspension, revocation, or cancellation; or

(2) a potential removal of a restriction.

SUBCHAPTER I. MOTOR CARRIER DIVISION DIRECTOR PROCEDURES IN CONTESTED CASES

STATUTORY AUTHORITY. The department proposes new sections under 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, §502.0021, which authorizes the department to adopt rules to administer Transportation Code, Chapter 502; Transportation Code, §502.091(b), which authorizes the department to adopt and enforce rules to carry out IRP; 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 that are necessary to implement and enforce Transportation Code, Chapter 623; Transportation Code, §643.003, which authorizes the department to adopt rules to administer

Transportation Code, Chapter 643; Transportation Code, §643.2525, which addresses the final order issued by the department for a contested case under Transportation Code, Chapter 643; 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; Transportation Code, §1003.001, which states that the department is subject to Government Code, Chapter 2001, except as specifically provided by law; Transportation Code, §1003.005, which authorizes the board by rule to delegate any power relating to a contested case, including the power to issue a final order, to certain department staff; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The proposed new sections would implement Transportation Code, Chapters 621, 622, 623, 643, and 645; Transportation Code, §§502.091(b), 1002.001, 1003.001, and 1003.005; and Government Code, Chapter 2001.

Text.

§224.310. Purpose and Scope.

This subchapter describes the procedures for the department's director of the Motor Carrier Division to review and issue a final order in a contested case in which the following conditions are met:

(1) the department's director of the Motor Carrier Division is the final order authority pursuant to a delegation under this chapter or as designated under Transportation Code, §643.001(2); and

(2) a SOAH ALJ has submitted a final proposal for decision for consideration by a person with such final order authority.

§224.312. Contested Case Review.

(a) After SOAH submits a final proposal for decision and transfers SOAH's administrative record to the department, the final order authority has jurisdiction and the record required to issue a final order and will review the contested case in accordance with the APA.

(b) The final order authority may schedule a special public meeting to review the contested case, as specified under this subchapter; however, the final order authority may also review SOAH's administrative record in a contested case and issue a final order without holding a special public meeting. The provisions in this subchapter regarding a special public meeting only apply if the final order authority schedules a special public meeting.

§224.314. Request for Oral Presentation.

(a) At least 20 days prior to the scheduled date of a special public meeting, the department shall notify the parties regarding the opportunity to attend and provide an oral presentation concerning a proposal for decision before the final order authority. The department will deliver notice electronically to the last known email address provided to the department by the party or party's authorized representative in accordance with §224.11 of this title (relating to Filing and Service of Documents).

(b) If a party intends to make an oral presentation at the special public meeting, a party must submit a written request for an oral presentation to the department's contact listed in the notice provided under subsection (a) of this section and copy all other parties in accordance with §224.11

1 of this title at least seven days prior to the date of the special public meeting at which the party's
2 contested case will be reviewed.

3 (c) If more than one party was not adversely affected by the proposal for decision, such
4 parties may agree on the order of their presentations in lieu of the order prescribed under §224.320
5 of this title (relating to Order of Oral Presentations to the Final Order Authority). These parties must
6 submit the agreed order of their presentations along with their requests to make an oral
7 presentation under subsection (b) of this section. The order of presentations will be determined
8 under §224.320 of this title if the parties who were not adversely affected by the proposal for
9 decision do not timely provide the department and the other parties with notice regarding their
10 agreed order of presentation.

11 (d) If a party timely submits a written request for an oral presentation, that party may make
12 an oral presentation before the final order authority at the special public meeting. If a party fails to
13 submit a written request for an oral presentation timely, that party shall not make an oral
14 presentation at the special public meeting.

15 (e) Non-parties are not authorized to provide an oral presentation or public comment to the
16 final order authority at a special public meeting.

17
18 §224.316. Written Materials and Evidence.

19 (a) If a party wants to provide written materials at the special public meeting, the party
20 must provide the written materials to the department and all other parties in accordance with
21 §224.11 of this title (relating to Filing and Service of Documents) at least 14 days prior to the date of
22 the special public meeting. If a party fails to timely provide written materials to the department or

1 any other party, the department shall not provide the written materials to the final order authority
2 and the party shall not provide the written materials to the final order authority at the special public
3 meeting. Non-parties are not authorized to provide written materials to the final order authority.

4 (b) For the purposes of this section, written materials are defined as language or images
5 including photographs or diagrams, that are contained in the SOAH administrative record and
6 recorded in paper form except as stated otherwise in this subsection. The language or images in the
7 written materials must be taken without changes from the SOAH administrative record; however,
8 proposed final orders are allowed to be included in a party's written materials even if they contain
9 arguments or requests that are not contained in the SOAH administrative record. Written materials
10 shall be limited to evidence contained in the SOAH administrative record and consistent with the
11 scope of the final order authority's authority to act under Government Code, §2001.058(e) and the
12 applicable law that governs the subject matter of the contested case, such as Transportation Code,
13 Chapters 621-623, 643, or 645.

14 (c) All information in the written materials shall include a citation to the SOAH administrative
15 record on all points to specifically identify where the information is located. The citations may be
16 provided in an addendum to the written materials that is not counted against the 15-page limit
17 under subsection (d) of this section; however, the addendum must not include any information other
18 than a heading that lists the name of the party, the caption for the contested case, and text that lists
19 the citations and page numbers.

20 (d) Written materials shall be 8.5 inches by 11 inches and single-sided. Written materials
21 must be double-spaced and at least 12-point type if in text form. Written materials are limited to 15
22 pages per party. If a party provides the department with written materials that contain more pages
23 than the maximum allowed, the department shall not provide the written materials to the final

1 order authority and a party shall not provide the written materials to the final order authority at the
2 special public meeting.

3 (e) Non-parties are not authorized to provide written materials to the final order authority at
4 a special public meeting.

5
6 §224.318. Oral Presentation Limitations and Responsibilities.

7 (a) A party to a contested case under review by the final order authority shall limit oral
8 presentation and discussion to evidence in the SOAH administrative record. Also, oral presentation
9 and discussion shall be consistent with the scope of the final order authority's authority to act under
10 Government Code, §2001.058(e) and the applicable law that governs the subject matter of the
11 contested case, such as Transportation Code, Chapters 621-623, 643, or 645.

12 (b) A party may argue that the final order authority should remand the contested case to
13 SOAH.

14 (c) Each party is responsible for objecting when another party attempts to make arguments
15 or engage in discussion regarding evidence that is not contained in the SOAH administrative record.

16 (d) A party's presentation to the final order authority is subject to the following limitations
17 and conditions:

18 (1) Each party shall be allowed a maximum of 15 minutes for their oral presentation.
19 The final order authority may increase this time.

20 (2) No party is allowed to provide a rebuttal or a closing statement.

1 (3) An intervenor of record from the SOAH proceeding supporting another party
2 shall share that party's time.

3 (4) Time spent by a party responding to a question from the final order authority is
4 not counted against such party's presentation time.

5 (5) During an oral presentation, a party to the contested case before the final order
6 authority may object that a party presented material or argument that is not in the SOAH
7 administrative record. Time spent discussing such objections is not counted against the objecting
8 party's time.

9
10 §224.320. Order of Oral Presentation to the Final Order Authority.

11 (a) The department will present the procedural history and summary of the contested case.

12 (b) The party that is adversely affected may present first. However, the final order authority
13 is authorized to determine the order of each party's presentation if:

14 (1) it is not clear which party is adversely affected;

15 (2) it appears that more than one party is adversely affected; or

16 (3) different parties are adversely affected by different portions of the contested
17 case under review.

18 (c) The other party or parties not adversely affected will then have an opportunity to make a
19 presentation. If more than one party is not adversely affected, each party will have an opportunity to
20 respond in alphabetical order based on the name of the party in the pleadings in the SOAH

1 administrative record, except as stated otherwise in §224.314 of this title (relating to Request for
2 Oral Presentation).

3
4 §224.322. Final Order Authority Conduct and Discussion When Reviewing a Contested Case.

5 (a) The final order authority shall conduct its contested case review in compliance with
6 Government Code, Chapter 2001; and the applicable law that governs the subject matter of the
7 contested case, such as Transportation Code, Chapters 621-623, 643, or 645, including the
8 limitations on changing a finding of fact or conclusion of law made by a SOAH ALJ, and the
9 prohibition on considering evidence outside of the SOAH administrative record.

10 (b) The final order authority may question a party or the department on any matter that is
11 relevant to the proposal for decision; however, a question shall be consistent with the scope of the
12 board's authority to take action under Government Code, §2001.058(e) and the applicable law that
13 governs the subject matter of the contested case, such as Transportation Code, Chapters 621-623,
14 643, or 645; a question must be limited to evidence contained in the SOAH administrative record;
15 and the communication must comply with §224.5 of this title (relating to Prohibited
16 Communication). In considering a contested case, the final order authority is authorized to ask a
17 question regarding a request to remand the case to SOAH, including a remand to SOAH for further
18 consideration of the evidence.

19 (c) The final order authority may use personal expertise in the industry to understand a
20 contested case and make effective decisions, consistent with the scope of the final order authority's
21 authority to act under Government Code, §2001.058(e) and the applicable law that governs the
22 subject matter of the contested case, such as Transportation Code, Chapters 621-623, 643, or 645.

1

2 §224.324. Final Orders.

3 (a) A final decision or order in a contested case reviewed by the final order authority shall be
4 in writing and shall be signed by the final order authority.

5 (b) The department shall email a copy of the final order to the parties in the contested case
6 and send a copy of the final order by certified mail, return receipt requested.

7 (c) The provisions of Government Code, Chapter 2001, Subchapter F govern:

8 (1) the issuance of a final order issued under this subchapter; and

9 (2) motions for rehearing filed in response to a final order.

10 (d) A decision or order in a contested case is final in accordance with Government Code,
11 §2001.144.

12

13 §224.326. Public Access to Special Public Meetings.

14 (a) Persons who have special communication or accommodation needs and who plan to
15 attend a special public meeting may contact the department's contact listed in the posted meeting
16 agenda for the purpose of requesting auxiliary aids or services. Requests shall be made at least two
17 days before a special public meeting. The department shall make every reasonable effort to
18 accommodate these needs.

19 (b) Members of the public are not authorized to question the parties to the contested case
20 or the final order authority regarding the contested case.

1 (c) A person who disrupts a special public meeting shall leave the meeting room and the
2 premises if ordered to do so by the final order authority.

3

4