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ADOPTION OF
SUBCHAPTER C. PERMITS FOR OVER AXLE AND OVER GROSS WEIGHT TOLERANCES
43 TAC §219.31

SUBCHAPTER H. ENFORCEMENT

43 TAC §219.126

REPEAL OF
SUBCHAPTER F. COMPLIANCE
43 TAC §219.83

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 TAC §219.31 and §219.126, concerning the movement of oversize or overweight vehicles, including the enforcement of motor vehicle size and weight limitations. The department adopts §219.31 and §219.126 without changes to the proposed text as published in the August 21, 2020, issue of the *Texas Register* (45 TexReg 5899). In conjunction with this adoption, the department is adopting the repeal of §219.86 concerning shipper's certificates of weight which is also published in this issue of the *Texas Register*.

REASONED JUSTIFICATION.

The adopted amendment amends §219.31(a) to conform with Transportation Code §623.321 by authorizing the current timber permit to be used to transport equipment used to load timber on a vehicle.

The adopted amendment amends §219.126 to conform with Transportation Code §623.272 because it adds that the department may also investigate and impose a fine on a shipper who does not provide a shipper's certificate of weight as required under Transportation Code §623.274(b).

1 The adopted amendment repeals §219.83 because it duplicates language found in Transportation
2 Code §623.271 and §623.274. Also, some of the language in §219.83 is inconsistent with Transportation
3 Code §623.274.

4 **SUMMARY OF COMMENTS.**

5 No comments on the proposed amendments were received.

6 **STATUTORY AUTHORITY.** The department adopts amendments under Transportation Code
7 §623.002 which authorizes the Texas Department of Motor Vehicles Board (board) to adopt rules for the
8 administration of Transportation Code Chapter 623; and Transportation Code §1002.001 which authorizes
9 the board to adopt rules that are necessary and appropriate to implement the powers and the duties of
10 the department.

11 **CROSS REFERENCE TO STATUTE.** Transportation Code §§623.272, 623.274, and 623.321.

12 **TEXT.**

13 **SUBCHAPTER C. PERMITS FOR OVER AXLE AND OVER GROSS WEIGHT TOLERANCES**

14 §219.31. Timber Permits.

15 (a) Purpose. This section prescribes the requirements and procedures regarding the annual permit
16 for the operation of a vehicle or combination of vehicles that will be used to transport unrefined timber,
17 wood chips, [ø] woody biomass, or equipment used to load timber on a vehicle under the provisions of
18 Transportation Code, Chapter 623, Subchapter Q.

19 (b) Application for permit.

20 (1) To qualify for a timber permit, a person must submit an application to the department.

21 (2) The application shall be in a form prescribed by the department and at a minimum,
22 will require the following:

1 (A) name, address, telephone number, and email address (if requested) of the
2 applicant;

3 (B) name of contact person and telephone number or email address;

4 (C) vehicle information, including vehicle year, make, license plate number and
5 state of issuance, and vehicle identification number; and

6 (D) a list of timber producing counties described in Transportation Code,
7 §623.321(a), in which the vehicle or combination of vehicles will be operated.

8 (3) The application shall be accompanied by:

9 (A) the total annual permit fee required by statute; and

10 (B) a blanket bond or irrevocable letter of credit as required by Transportation
11 Code, §623.012, unless the applicant has a current blanket bond or irrevocable letter of credit on file with
12 the department that complies with Transportation Code, §623.012.

13 (4) Fees for permits issued under this section are payable as required by §219.11(f) of this
14 title (relating to General Oversize/Overweight Permit Requirements and Procedures).

15 (c) Issuance and placement of permit and windshield sticker; restrictions.

16 (1) A permit and a windshield sticker will be issued once the application is approved, and
17 each will be mailed to the applicant at the address contained in the application.

18 (2) The windshield sticker shall be affixed to the inside of the windshield of the vehicle in
19 accordance with the diagram printed on the back of the sticker and in a manner that will not obstruct the
20 vision of the driver. Any attempt to remove the sticker from the windshield will render the sticker void
21 and will require a new permit and sticker.

22 (3) A replacement sticker for a lost, stolen, or mutilated windshield sticker may be issued,
23 provided that the permittee submits a request on a form approved by the department which shall include

1 a statement, signed by the permittee, affirming that the sticker was lost, stolen, or mutilated. The
2 replacement sticker shall only be valid for the permitted vehicle.

3 (d) Notification. The financially responsible party as defined in Transportation Code, §623.323(a),
4 shall electronically file the notification document described by §623.323(b) with the department via the
5 form on the department's website.

6 (e) Transfer of permit. An annual permit issued under this section is not transferable between
7 vehicles.

8 (f) Amendments. An annual permit issued under this section will not be amended except in the
9 case of department error.

10 (g) Termination of permit. An annual permit issued under this section will automatically
11 terminate, and the windshield sticker must be removed from the vehicle:

12 (1) on the expiration of the permit;

13 (2) when the lease of the vehicle expires;

14 (3) on the sale or other transfer of ownership of the vehicle for which the permit was
15 issued;

16 (4) on the dissolution or termination of the partnership, corporation, or other legal entity
17 to which the permit was issued; or

18 (5) if the permittee fails to timely replenish the bond or letter of credit as required by
19 Transportation Code, §623.012.

20 (h) Restrictions. Permits issued under this section are subject to the restrictions in §219.11(l) of
21 this title.

22 **SUBCHAPTER H. ENFORCEMENT**

23 **43 TAC §219.126**

1 §219.126. Administrative Penalty for False Information on Certificate by a Shipper.

2 (a) The department may investigate and impose an administrative penalty on a shipper who does
3 not provide a shipper's certificate of weight as required under Transportation Code §623.274(b) or
4 provides false information on a shipper's certificate of weight that the shipper delivers to a person
5 transporting a shipment.

6 (b) The notice and hearing requirements of §219.124 of this title (relating to Administrative
7 Proceedings) apply to the imposition of an administrative penalty under this section.

8 (c) The amount of an administrative penalty imposed under this section is calculated in the same
9 manner as the amount of an administrative penalty imposed under §219.121 of this title (relating to
10 Administrative Penalties).

11 **SUBCHAPTER F. COMPLIANCE**

12 **43 TAC §219.83**

13 ~~[(a) For a shipper's certificate of weight to be valid, the shipper must:]~~

14 ~~[(1) certify that the information contained on the form used for the shipper's certificate~~
15 ~~of weight is accurate; and]~~

16 ~~[(2) deliver the certificate to the motor carrier or other person transporting the shipment~~
17 ~~before:]~~

18 ~~(A) the motor carrier or person applies for an overweight permit under this~~
19 ~~chapter; or]~~

20 ~~(B) the motor carrier or person begins to transport the shipment if the motor~~
21 ~~carrier or person does not apply for an overweight permit because of the information in the certificate.]~~

