

1 consistent terminology; to clarify or delete unused, archaic, or inaccurate definitions, terms, and
2 references or other language; to delete language that is inconsistent with statute, to implement statutory
3 changes and add conforming language; to deter fraud or abuse by expanding fingerprint requirements to
4 salvage vehicle dealers and setting minimum standards for business operations; to clarify existing
5 requirements; and to modernize language and improve understanding and readability. Proposed
6 amendments would implement Senate Bill (SB) 422, 88th Legislature, Regular Session (2023), which
7 amended Occupations Code §§55.004, 55.0041, and 55.005 affecting licensing of military service
8 members, and would conform language with SB 604, 86th Legislature, Regular Session (2019), which
9 eliminated salvage vehicle dealer license endorsements, and House Bill (HB) 1667, 86th Legislature,
10 Regular Session (2019) which granted certain motor vehicle dealers the option to act as a salvage dealer.
11 Repeals are proposed to remove a section which duplicates §217.86 of this title and to move the
12 adjudicative rules in Subchapter E to proposed new Chapter 224 of this title (relating to Adjudicative
13 Practice and Procedure), which is proposed in this edition of the *Texas Register* to consolidate all
14 department adjudicative practice and procedure rules in one chapter. Subchapter F is also proposed for
15 relettering because the preceding subchapter is proposed for repeal.

16

17 **EXPLANATION.**

18 Subchapter A. General Provisions

19 Proposed conforming amendments to §221.1 would more completely describe the scope of the chapter
20 to include holders of an independent motor vehicle dealer's general distinguishing number (GDN) issued
21 under Transportation Code, Chapter 503, who act as salvage vehicle dealers.
22 HB 1667, 86th Legislature, Regular Session (2019), added Occupations Code, §2302.009 and amended
23 §2302.101, granting these dealers the ability to perform salvage activities without obtaining a salvage

1 vehicle dealer’s license, but at the same time requiring these dealers to comply with Occupations Code,
2 Chapter 2302 requirements. For completeness, a proposed amendment would add a reference to persons
3 exempt from licensure as Occupations Code, Chapter 2302 contains exceptions for metal recyclers,
4 insurance companies, and used automotive recyclers licensed under Occupations Code, Chapter 2309.

5 The proposed amendments to §221.2 would add the following definitions for consistency: “day”
6 in §221.2(4) to mean a calendar day, unless otherwise stated or the context clearly indicates otherwise;
7 “director” in §221.2(6) to mean the division director that regulates the distribution and sales of motor
8 vehicles, including any department staff to whom the director delegates any duty assigned under this
9 chapter; and “General Distinguishing Number (GDN)” in §221.2(7) to match the definition of the same
10 term in Occupations Code, §2301.002(17). A proposed amendment to §221.2(8) would also conform the
11 definition of “license holder” to include an independent motor vehicle dealer GDN authorized to operate
12 as a salvage vehicle dealer consistent with Occupations Code, §2302.009 and §2302.102. A proposed
13 amendment to renumbered §221.2(15) would also substitute the current definition of “person” for the
14 definition in Occupations Code, §2301.002 for consistency. The proposed amendments to §221.2 would
15 also remove the definition of “corporation” in §221.2(4) because a special definition for corporation is
16 unnecessary. The proposed amendments to §221.2 would remove the definition of “final order authority”
17 in §221.2(6) because the sections of Chapter 221 that use the term “final order authority”, §221.93 and
18 §221.95, are proposed for repeal and will be incorporated into new proposed Chapter 224 of this title
19 (relating to Adjudicative Practice and Procedure). The proposed amendments to §221.2 would also
20 remove the definitions of “major component part,” in §221.2(8) and “minor component part” in §221.2
21 (10) because these two terms are not referenced in Chapter 221. Proposed amendments would also
22 renumber the definitions to correspond with the proposed revisions.

23

1 Subchapter B. Licensing

2 The proposed amendment to § 221.11(b) would make a minor change to reflect that a motor vehicle may
3 be either registered or titled to operate on public highways. Proposed amendments to §221.11(c) would
4 substitute a statutory reference to a person exempt from licensure and would delete rule language that
5 duplicates the statute to ensure consistency with any future statutory changes.

6 A proposed amendment to § 221.13(c) would set a fee for a salvage vehicle dealer license amendment at
7 \$25. Occupations Code, §2302.052 assigns the board the duty of setting reasonable and necessary fees.
8 Occupations Code, §2301.264(e) prescribes a \$25 license amendment fee for licenses issued under
9 Occupations Code, Chapter 2301 and Transportation Code, Chapter 503. The department construes the
10 fee amount prescribed in statute to be reasonable and necessary and proposes adopting the same fee
11 because department resources required to process a license amendment are similar across all license
12 types.

13 A proposed amendment to §221.14(a) would make a minor edit to remove redundant language.
14 Occupations Code, §2302.103 requires an applicant to submit an application on a form prescribed by the
15 department. Proposed amendments to §221.14(b) would update application requirements for a new
16 salvage vehicle dealer license, license amendment, or license renewal. These proposed amendments
17 include language consistent with current practices and new requirements to deter and prevent fraud in
18 the application process, such as fingerprinting and site visits, that have proven to be successful in reducing
19 fraud in the issuance of dealer GDNs, a related license type. Proposed amendments §221.14(b) would
20 specify that the application must be on a department-approved form; completed by the applicant, license
21 holder, or authorized representative who is an employee, a licensed attorney, or a certified public
22 accountant; and accompanied by the required fee from an account held by the applicant or license holder,
23 or from a trust account of the applicant or license holder, or from a trust account of the applicant's or

1 license holder’s attorney or certified public accountant. Proposed amendments would create new
2 §221.14(c) to modernize the application process by requiring license applications and fees to be submitted
3 to the department electronically and paid for by credit card or electronic funds transfer. Proposed
4 amendments would create new §221.14(d), intended to reduce application fraud by giving the
5 department the option to require a site visit to determine whether a business location meets the
6 requirements of Chapter 221. Proposed amendments would add new §221.14(e) to reduce application
7 fraud by requiring salvage vehicle dealers applying for or renewing a license to comply with fingerprint
8 requirements in §211.6 of Title 43. The proposed fingerprinting requirement would be a one-time
9 requirement if a person maintains an active license. Proposed amendments would create new §221.14(f)
10 to clarify that the department will not provide information regarding the status of an application,
11 application deficiencies, or pending new license numbers to a person other than to the applicant, license
12 holder, or authorized representative, unless the person files a written request under the Texas Public
13 Information Act. These proposed revisions to §221.14 would provide more clarity and certainty regarding
14 the salvage vehicle dealer license application process.

15 Proposed amendments to §221.15 update the information required on a salvage vehicle dealer
16 application. Proposed new §221.15(a) would modernize the application process by requiring an applicant
17 for a new salvage dealer license to register for an account in the online licensing system, to designate an
18 account administrator, to provide the name and email address for that person, and to provide the
19 business telephone number, name, business type, and social security number or employer identification
20 number, as applicable. Proposed new §221.15(a) would specify that the applicant’s license account
21 administrator must be an owner, officer, manager, or bona fide employee to reduce fraud and increase
22 responsiveness and accountability by the applicant.

1 Proposed amendments would create a new subsection §221.15(b) that would include language currently
2 in §221.15. Proposed new §221.15(b) would require the applicant to provide the reason for the
3 application and certain other business information. Proposed amendments to the existing language
4 incorporated into proposed new §221.15(b) would remove surplus language and provide additional detail
5 regarding required business information to improve the department’s ability to identify fraud and
6 investigate applicants, including clarifying that the business address is the physical address of the
7 business, and that the following information is required: business email address; telephone number; Texas
8 Sales Tax Identification Number; National Motor Vehicle Title Information System Identification Number
9 (NMVTIS); and Secretary of State filing number, if applicable. Proposed amendments to the text in
10 proposed new §221.15(b) would prohibit the business name or assumed name from being misleading to
11 the public so that accurate information about the nature of the salvage business is disclosed to the public.
12 Proposed amendments to the text incorporated into proposed new §221.15(b) would also require the
13 applicant to provide an application contact name, email address, and telephone number to allow the
14 division to contact the applicant easily and would delete the prior requirement that the department
15 consider the applicant’s last known address as the applicant’s designated mailing address to decrease
16 misdirected mail. Additionally, proposed new §221.15(b) would consolidate previous subsections that set
17 out separate requirements for the applicant to apply as a sole proprietor, a general partnership, or a
18 limited partnership, limited liability company, or corporation. To allow the department to identify and
19 investigate applicants, the proposed amendments to §221.15(b) would require the applicant to provide:
20 the name, social security number, date of birth, identity document information, and ownership
21 percentage for each owner, partner, member, beneficiary, or principal if the applicant is not a publicly
22 traded company; the name, social security number, date of birth, and identity document information for
23 each officer, director, manager, trustee, or other representative authorized to act on behalf of the

1 applicant if the applicant is owned in full or in part by a legal entity; the name, employer identification
2 number, ownership percentage, and non-profit or publicly-traded status for each legal entity that owns
3 the applicant in full or in part; the name, social security number, date of birth, and identity document
4 information of at least one manager or other bona fide employee who will be present at the business
5 location if the license holder is out of state or will not be present during business hours at the business
6 location in Texas. To facilitate the department's evaluation of applicants and its efforts to protect the
7 public from crime, proposed amendments to the text incorporated into new §221.15(b) would clarify that
8 criminal history record information required for an application is criminal history record information
9 under the laws of Texas, another state in the United States, the United States, and any foreign jurisdiction
10 for each person listed in the application, including the offense description, date, and location. Other
11 proposed amendments to the text incorporated into new §221.15(b) would clarify that applicants are
12 required to provide their military service status to enable the department to determine eligibility for
13 special licensing considerations provided under law to veterans. Proposed amendments to the text
14 incorporated into new §221.15(b) would facilitate department investigations of applicants by clarifying
15 the requirement for an applicant to provide information regarding previously submitted license
16 applications, whether under this chapter or the laws of another jurisdiction, the result of previous
17 applications, and whether the applicant has ever been the holder of a license issued by the department
18 or another jurisdiction that was revoked, suspended, or subject of an order issued by the board or by
19 another jurisdiction, or has an unpaid administrative penalty. These proposed requirements in proposed
20 new §221.15(b) are consistent with Occupations Code, §2302.104, which prescribes information that
21 must be obtained from an applicant, and that is necessary for the department to investigate an applicant's
22 qualifications as required under Occupations Code, §2302.105. Proposed amendments in proposed new
23 §221.15(b) would require an applicant to provide information about each business location and business

1 premises sufficient to demonstrate compliance with related premises rules in Chapter 221, Subchapter C.
2 Proposed amendments in proposed new §221.15(b) would also clarify that a salvage vehicle dealer
3 renewing or amending its license must verify its current license information and provide information for
4 any new requirements or changes to the license.

5 Proposed amendments to §221.16 would require an applicant to attach a legible and accurate image of
6 each required document to allow the department to investigate and process the application as required
7 under Occupations Code, Chapter 2302. Proposed amendments to §221.16 would specify that required
8 attachments include the certificate of filing, certificate of incorporation, or certificate of registration on
9 file with the Secretary of State, if applicable; each assumed name certificate on file with the Secretary of
10 State or county clerk; at least one identity document for each natural person listed in the application;
11 documents proving premises ownership or a valid lease; business premises photos with a notarized
12 affidavit; a Texas Use and Sales Tax Permit; a Franchise Tax Account Status issued by the Comptroller's
13 Office, and any other documents required by the department to evaluate the application under current
14 law and board rules. These proposed amendments would consolidate previous separate requirements for
15 sole proprietors, general partnerships, limited partnerships, limited liability companies, and corporations.

16 The proposed amendments to §221.16(c) would also update references to types of identification
17 consistent with current usage and changes in statute. The proposed amendments to §§221.16(d) and (e)
18 would clarify and add requirements that the license application includes documents proving business
19 premises ownership or a fully executed lease or sublease agreement for the license period, and business
20 premises photos with a notarized affidavit certifying that all premises requirements in Subchapter C are
21 met and will be maintained during the license period. These changes are necessary to prevent and deter
22 fraud in the application process and to improve compliance with premises requirements in Chapter 221,
23 Subchapter C. These requirements are consistent with GDN dealer requirements, which have proven

1 successful in preventing and deterring fraud and improving compliance with premises requirements. A
2 proposed amendment to §221.16(h) would further authorize the department to require any other
3 documents necessary to evaluate the application to ensure that the department can comply with its
4 statutory duty to investigate each license application as required under Occupations Code, §2302.105.
5 A proposed amendment to §221.17(a) would exempt a license holder from any increased fee or penalty
6 for failing to timely renew a license because the license holder was on active military duty. This
7 amendment is necessary to conform to Occupations Code, §55.002.
8 Proposed amendments to §221.17(b) would add the phrase “military service members or” in multiple
9 places in subparagraphs (1), (2), and (3). These proposed amendments are necessary to implement SB
10 422, which entitled military service members with out-of-state licenses to be eligible for special business
11 or occupational authorization or licensing consideration that is already afforded for military spouses.
12 Proposed amendments in §221.17(b)(1) would delete duplicate references to Occupations Code,
13 §55.0041 and would substitute the phrase “being stationed” for “residency” to clarify that eligibility for
14 special licensing consideration for both the military service member and military spouse is based on the
15 military service member being stationed in Texas rather than residing in Texas.
16 Three other amendments to §221.17(b)(3) are proposed to implement SB 422. Proposed amendments
17 would change the word “may” to “shall” and add the phrase “within 30 days” to set a deadline by which
18 the department must issue a license to a military service member or spouse. This change is necessary to
19 implement changes to Occupations Code, §55.005(a) from SB 422, which requires a state agency to issue
20 a license no later than the 30th day after an application is filed. Issuing a license within 30 days would also
21 fulfill the requirement of Occupations Code, §55.0041, as amended by SB 422, which requires that the
22 department confirm within 30 days that the military service member or military spouse is authorized to
23 engage in the licensed business or occupation. Another amendment to §221.17(b)(3) would add the

1 phrase “or modified” to recognize that provisions of Occupations Code, Chapter 55 may require the
2 department to modify standard licensing processes when processing an application for a military service
3 member or military spouse and to clarify that the department’s licensing process for military service
4 members and military spouses will be in accordance with all Occupations Code, Chapter 55 requirements.
5 A proposed amendment would add new §221.17(c) to clarify that the requirements and procedures
6 authorized under Texas law do not modify or alter rights under federal law.

7 Proposed amendments to §§221.18(a-c) would modernize the notification requirements by specifying
8 that a license holder notify the department if the license holder opens or closes an additional location by
9 electronically submitting a license amendment in the department’s designated licensing system. Proposed
10 amendments to §221.18(a)(2) and §221.18(b)(2) would remove surplus language. A proposed
11 amendment to §221.18(c) would clarify the appropriate action a license holder must take when closing a
12 location depending on the number of locations listed in the license. A proposed amendment would add
13 new §221.18(d) to clarify an existing requirement that a license holder must apply for a new license if the
14 license holder is opening a new location not located in the same county.

15 Proposed amendments to §221.19 would update the title to reflect the scope of the section. Proposed
16 amendments to §221.19(a) and (b) would modernize the process for requesting a license amendment by
17 requiring the license holder to submit a license amendment application electronically in the department’s
18 designated licensing system. A proposed amendment to §221.19(a) would clarify that a license holder is
19 required to submit a change in assumed name to the department to enable the department to investigate
20 whether the assumed name is misleading or deceptive or otherwise violates a law or rule. Proposed
21 amendments would add new §221.19(b)(4) to clarify that a license holder must notify the department of
22 a change in business email address, telephone number, mailing address, or license contact so that the
23 department can communicate with a license holder. Another proposed amendment would add

1 §221.19(c), which would require the license holder to provide the department with any information
2 necessary for the department to fully evaluate a license amendment to enable the department before
3 approving to conduct a thorough and efficient investigation as required by Occupations Code, §2302.105.
4 Proposed amendments to §221.20(a), (d), (e), (h), and relettered (j) would simplify the language and
5 improve readability without changing meaning. Proposed amendments to §221.20(c) would change
6 “salvage vehicle dealer’s” to “license holder’s” for clarity and consistency, correct the time frame in which
7 the department will provide notice of license expiration from 30 to 31 days consistent with Occupations
8 Code, §2302.152, add “of expiration” to clarify a reference to a written notice, and add “license” to clarify
9 the description of a renewal fee. A proposed amendment to §220.20(i) would add new language to clarify
10 that a license holder who timely submits a renewal application may continue to operate under the expired
11 license until the status of the renewal application is determined by the department in accordance with
12 Government Code, §2001.054. The current language in §220.20(i) is relettered to §220.20(j).

13

14 Subchapter C. Licensed Operations

15 Proposed amendments to §221.41 would make minor changes to simplify and modernize the language to
16 add clarity without changing meaning. Proposed amendments to §221.41(1) would add new requirements
17 that apply if a salvage dealer leases or subleases property for a business location. Proposed amendments
18 to create new §§221.41(1)(D) and (E) would require a property owner signature or a signed and notarized
19 statement from the property owner if the location is subleased and the property owner is not the lessor.
20 The property owner statement must include the property owner’s full name, email address, mailing
21 address, and phone number and confirm that the dealer is authorized to sublease the location and to
22 operate a salvage vehicle dealer business. These proposed changes are necessary to prevent fraud in the
23 application process, to prevent consumer abuse, and to protect public health and safety. This provision

1 also protects salvage vehicle dealer applicants: the department has received applications from dealers
2 with a signed sublease who are unable to operate a business because the property owner has not
3 authorized a dealer to operate such a business on the property.

4 Proposed amendments to the title and language of §221.42 would make minor wording changes to clarify
5 and remove surplus wording.

6 Proposed amendments to §221.43(a) would require a salvage vehicle dealer who sells to a retail customer
7 to be open at least four days per week for at least four consecutive hours per day and prohibit the office
8 to be open solely by appointment. These proposed amendments would create standard minimum
9 business hours across the industry by requiring the office of a salvage pool operator selling only to a
10 wholesale dealer to be open at least two weekdays per week for at least two consecutive hours per day
11 and prohibit the office to be open solely by appointment. Occupations Code, §2302.0015 requires a
12 person to allow the department, law enforcement officers, and others to enter and inspect a business
13 during normal business hours. Minimum normal business hours are not defined in statute or rule;
14 therefore, these proposed amendments are necessary to establish these standards, and the board is
15 authorized to do so under the rulemaking authority in Occupations Code, §2302.051. Proposed minimum
16 standards for salvage vehicle dealers are consistent with current minimum requirements for GDN dealers
17 in §215.140(1)(A) of this title and proposed minimum standards for salvage pool operators that only sell
18 to wholesale dealers are consistent with current requirements for wholesale GDN dealers in §215.140(2)
19 of this title. These proposed minimum hours are necessary to deter and prevent fraud in the application
20 process, prevent consumer harm, and ensure the department and others authorized by law have access
21 to a salvage vehicle dealer's location for inspection purposes. Proposed amendments to §221.43(c) and
22 (d) would make minor word changes for clarity. An additional proposed amendment to §221.43(d) would
23 give license holders more flexibility by adding options for the office telephone to be answered by the

1 owner or a voicemail service in addition to a bona fide employee, answering service, or answering
2 machine.

3 Proposed amendments to §221.44(a) would clarify that a permanent business sign must be made of
4 durable, weather resistant material. Proposed amendments to §221.44(b) would clarify that a sign will be
5 considered permanently mounted if it is bolted to an exterior building wall or bolted or welded to a
6 dedicated sign pole or a sign support permanently installed in the ground. Proposed new §221.44(c) would
7 authorize a license holder to use a temporary sign or banner if that license holder can show proof that a
8 business sign that meets the above requirements has been ordered and provides a written statement that
9 the business sign will be promptly and permanently mounted upon delivery. This proposed amendment
10 would allow a license holder to open their business without delay if all other department requirements
11 are met. Proposed new §221.44(d) would clarify that a license holder is still responsible for ensuring that
12 the business sign complies with applicable municipal ordinances and that any signage requirements in a
13 lease comport with the requirements of this section.

14 A proposed amendment to §221.45(a) would clarify that a business must be located in a building that has
15 a permanent roof. A proposed amendment to §221.45(c) would clarify that a business may not conduct
16 operations in a room or building not open to the public. A proposed amendment would create new
17 §221.45(e) to clarify that a business may not be virtual or provided by a subscription for office space or
18 office services. A proposed amendment would create new §221.45(f) to require the physical address of a
19 business be in Texas, recognized by the U.S. Postal Service, and have an assigned emergency services
20 property address, to ensure that both the public and department personnel can readily locate the place
21 of business, and confirm the municipality in which the property is located. A proposed amendment to
22 §221.45(g) would modernize the business access requirements by requiring the business to be equipped

1 with internet access. These amendments are consistent with minimum standards for public health and
2 safety and business operation and are necessary to deter and prevent fraud in the licensing process.

3 Proposed amendments to §221.46 regarding the requirements to display a license would make minor
4 wording changes to simplify language for clarity without changing meaning.

5 A proposed amendment to §221.47 would clarify that a salvage vehicle dealer must properly process
6 vehicle records in accordance with §217.86 of this title regarding the dismantling, scrapping, or
7 destruction of motor vehicles. The following provision, §221.48, duplicates §217.86 and is therefore
8 proposed for repeal because it is redundant and unnecessary with the proposed addition of a citation to
9 §217.86 in §221.47.

10 A proposed amendment to §221.49 would add a phrase from the title of the section to the body of the
11 section for clarification.

12 Proposed amendments to §221.50(a) would clarify that a sale or transfer of a flood-damaged vehicle must
13 be in accordance with §217.88 of this title, regarding the sale, transfer, or release of ownership of a non-
14 repairable or salvage motor vehicle. Proposed amendments to §221.50(b) would make wording and
15 format changes to clarify the language without changing the meaning. Proposed amendments to
16 §221.50(c) and (d) would delete duplicative language also found in §217.88.

17 Proposed amendments to §221.51 would make wording changes to clarify the language and comport with
18 current practice. Proposed amendments to §221.51(c) and (d) would remove the phrase “or any other
19 state” to reflect that the department does not have jurisdiction over out-of-state highways. Proposed
20 amendments to §221.51(f) would allow flexibility for a salvage vehicle dealer who offers only salvage
21 vehicles for sale to install a conspicuous permanent sign to provide the required notice to consumers
22 under §221.51(a) and (c). A proposed amendment to §221.51(h) would rephrase the existing requirement

1 to recognize that a separate salvage pool license endorsement no longer exists in statute as salvage
2 vehicle dealer license endorsements were eliminated by SB 604, 86th Legislature, Regular Session (2019).
3 The proposed amendment to §221.52(a) would add a reference to §217.88 of this title. A proposed
4 amendment to §221.52(b) would remove duplicate language found in §217.88 of this title, and the
5 remaining subsections would be relettered. A proposed change to relettered §221.52(b) would change
6 the retention period for a copy of a purchaser’s photo identification from 48 to 36 months for consistency
7 with §217.88.

8 Proposed amendments to §221.53 would reference §217.88 and delete redundant language found in
9 §217.88.

10 Proposed amendments to §221.54 would add “vehicle” for consistency in terminology and would add two
11 factors the department will consider in determining whether to conduct a site visit: whether a business
12 location fails to meet premises or operating requirements and whether records require further
13 investigation by the department. These criteria are proposed to be added because they are indicators of
14 fraud and consumer harm that frequently arise in complaints investigated by the department.

15

16 Subchapter D. Records

17 Proposed amendments to §221.71 would edit language to remove surplus language and improve
18 grammar and clarity. A proposed amendment to §221.71(c) would modernize the rule by deleting a
19 reference to a requestor being present at the business location and adding an option for records to be
20 provided electronically upon request. A proposed amendment to §221.71(e) would increase the deadline
21 from 10 days to 15 days for a salvage vehicle dealer to provide copies of requested records to the
22 department.

1 Proposed amendments to §221.72 would clarify an existing requirement that a salvage vehicle dealer
2 maintain a record of each vehicle that is dismantled, in addition to each vehicle scrapped or destroyed,
3 and shortens the length of retention of these records from the fourth anniversary of the date the report
4 was acknowledged as received by the department to the third anniversary for consistency with other
5 sections. Lastly, proposed amendments to §221.72(c) would add a word and remove a comma for clarity
6 without changing the meaning of the rule.

7 Proposed amendments to §221.73 would make wording changes to improve clarity and reflect current
8 practice regarding both vehicle purchase and vehicle sales records. Proposed amendments would add
9 references to §221.52 and §217.89 and would remove redundant language in this section, related to
10 unnecessary descriptors including various types of photo identification. The proposed amendments to
11 §221.73(a) would expand the list of records that may be applicable to a particular purchase or sale for
12 clarification and consistency with other rules and because these records are necessary for the department
13 to determine a dealer’s compliance with existing laws and rules.

14

15 Subchapter E. Administrative Procedures

16 All sections in Subchapter E are proposed for repeal because the substance of each rule and any proposed
17 amendments are incorporated into proposed new Chapter 224, Adjudicative Practice and Procedure,
18 which is published in this issue of the *Texas Register*. The proposed repeal includes §§221.91–221.96.

19

20 Subchapter F. Administrative Sanctions

21 Proposed amendments to §221.111 would delete unnecessary phrases without changing the meaning
22 and would update a citation to improve clarity. Additionally, proposed amendments to §221.111(a)(5-6)
23 would remove the phrase “is unfit to hold the licenses, is ineligible for licensure” from the factors the

1 department considers to determine denial of licensure as that language is not found in Occupations Code,
2 Chapter 2302.

3 Proposed amendments to §221.112 would delete unnecessary phrases without changing the meaning,
4 add statutory and rule references and explanatory language for clarity, remove surplus language
5 associated with those references, and renumber accordingly.

6 Proposed amendments to §221.115 would remove the language stating that the department will not
7 refund license fees in the case of a licensure denial, suspension, or revocation and would substitute
8 language that allows a refund with director approval unless a license application is withdrawn, denied,
9 suspended, or revoked, or the license applicant or license holder is subject to an unpaid civil penalty
10 imposed by a final order against the license applicant or license holder. This provision would ensure that
11 the department receives as much of the civil penalties it assesses as possible but would also give the
12 department flexibility to refund an application fee in other circumstances. These proposed amendments
13 are consistent with the refund process for other license types.

14 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer,
15 has determined that for each year of the first five years the amendments will be in effect, there will be no
16 significant fiscal impact to state or local governments as a result of the enforcement or administration of
17 the proposal. Monique Johnston, Director of the Motor Vehicle Division (MVD), has determined that there
18 will be no significant impact on local employment or the local economy as a result of the proposal.

19 **PUBLIC BENEFIT AND COST NOTE.** Ms. Johnston also determined that, for each year of the first five years
20 the proposed amendments are in effect, several significant public benefits are anticipated, and certain
21 applicants and license holders may incur costs to comply with the proposal. In proposing these
22 amendments, the department prioritized the public benefits associated with reducing fraud and related

1 crime and improving public health and safety, while carefully considering potential costs to salvage vehicle
2 dealers consistent with board and department responsibilities.

3 A proposed amendment would charge a \$25 fee for a license amendment, the same amount paid by all
4 other license holders for filing an amendment. Ms. Johnston has determined department resources to
5 process a salvage vehicle dealer license amendment is approximately the same on average as for other
6 dealer license types and a \$25 fee is reasonable and fair.

7 Proposed amendments to §§221.14, 221.15, and 221.16, may require applicants and license holders to
8 provide more information in the application. While some applicants may be required to spend more time
9 completing an application or providing additional information, Ms. Johnston has determined these costs
10 will be offset by the reduced risk of license applicants and holders incurring financial penalties due to
11 noncompliance with applicable federal, state, or local statutes or property owner requirements, which
12 will benefit both license holders and the public. The department's civil penalty guidelines for license
13 holders who violate statutory provisions range \$500 to \$10,000 per violation.

14 In proposed amendments to §221.15, an applicant or license holder may not use a name or assumed
15 name that may be confused with or is similar to that of a governmental entity or that is otherwise
16 deceptive or misleading to the public. Ms. Johnston estimates that a small number of current license
17 holders may have to change a confusing, deceptive, or misleading business name or assumed name and
18 may incur related secretary of state or county filing fees or signage cost. The Secretary of State filing fee
19 to amend a business name is \$150. Department research suggests the cost for an exterior sign will vary
20 between \$30 to \$167, with an average expected cost of about \$80. The department recognizes that these
21 costs may vary widely based on business owner style and design preferences. The department's civil
22 penalty guidelines for license holders who violate statutory provisions range \$500 to \$10,000 per
23 violation. Ms. Johnston has determined that the signage cost will be offset by the reduced risk of these

1 license holders incurring financial penalties due to noncompliance with laws and regulations and will
2 benefit the public by informing the public and preventing consumer harm.

3 A proposed amendment to §221.14 would add fingerprint requirements for a salvage vehicle dealer
4 license applicant and holder. Fingerprint requirements allow the department to verify the identity of
5 license applicants, preventing fraudulent applications under false or stolen identities, while giving the
6 department access to more accurate and comprehensive criminal history record information to use in
7 evaluating fitness for licensure under its criminal offense guidelines in §211.3. These new fingerprint
8 requirements benefit the public by preventing bad actors with a history of criminal offenses that directly
9 relate to the duties and responsibilities of a license holder from obtaining licenses from the department
10 and using those licenses to perpetrate fraudulent and criminal actions, or otherwise taking advantage of
11 the position of trust created by the license. Ms. Johnston anticipates that there will be no additional costs
12 on regulated persons to comply with the fingerprint requirements under this proposal as the new section
13 does not establish fees for fingerprinting or processing criminal background checks. Fees for fingerprinting
14 and access to criminal history reports are established by DPS under the authority of Texas Government
15 Code Chapter 411.

16 Proposed amendments to §221.73 may require a salvage vehicle dealer to keep more document copies
17 in a vehicle records file. Ms. Johnston anticipates that while most bona fide dealers already comply with
18 these requirements, a few dealers may have to add up to four additional pages to the sales file.
19 Department research suggests that the cost of a copy ranges from \$0.14 to \$0.22 per page. She has
20 determined that these costs are necessary to prevent fraud and protect consumers.

21 Proposed changes to §221.43 requires a salvage vehicle dealer to observe minimum requirements for
22 weekly business hours which vary based on whether a dealer sells at retail to the public or to wholesale
23 customers. Ms. Johnston anticipates that bona fide salvage vehicle dealers exceed these minimum

1 requirements. However, a salvage vehicle dealer may be required to establish more regular hours to
2 comply. Ms. Johnston has determined that the minimum 16 hours per week for retail dealers and four
3 hours per week for wholesale dealers is set so that the hiring of additional staff should not be required
4 and that establishing minimum requirements for regular business hours is necessary to prevent fraud and
5 ensure the public and department has access to the licensed business.

6 A proposed amendment would require a salvage vehicle dealer to have internet access in the office. Ms.
7 Johnston anticipates that most bona fide salvage vehicle dealers already have access either at their office
8 or on a mobile device. If a salvage dealer does not have access a dealer could purchase a mobile phone
9 with a data plan. Department research suggests that this cost ranges from \$15 to \$90 per month and that
10 basic internet service costs \$65 per month. Ms. Johnston has determined that these requirements are
11 reasonable minimum standards as the public and the department must be able to communicate with a
12 license holder and these requirements are necessary to prevent fraud and consumer harm.

13 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.**

14 The cost analysis in the Public Benefit and Cost Note section of this proposal determined that proposed
15 amendments may result in additional costs for a few license holders. Based on data from the Comptroller
16 and the Texas Workforce Commission, the department estimates that most license holders are small or
17 micro-businesses. The department has tried to minimize costs to license holders. The new proposed
18 requirements are designed to be the minimum standards that will prevent fraud in the application
19 process, prevent consumer abuse, and protect public health and safety. These requirements do not
20 include requirements that will cause a license holder to incur unnecessary or burdensome costs, such as
21 employing additional persons.

22 Under Government Code §2006.002, the department must perform a regulatory flexibility analysis. The
23 department considered the alternatives of not adopting amendments, exempting small or micro-

1 businesses, and rural community license holders from these amendments, and adopting a limited version
2 of these amendments for these license holders. The department rejects all three options. The department
3 reviewed licensing and enforcement records, including records for license holders whose license has been
4 revoked and determined that small and micro-business license holders are largely the bad actors
5 perpetrating fraud in the application process and causing consumer harm, and that rural communities are
6 not currently affected because department records indicate that no rural community holds a salvage
7 dealer license. The department, after considering the purpose of the authorizing statutes, does not
8 believe it is feasible to waive or limit the requirements of the proposed amendments for small or micro-
9 business salvage vehicle dealers. Also, Government Code §2006.002(c-1) does not require the department
10 to consider alternatives that might minimize possible adverse impacts on small businesses, micro-
11 businesses, or rural communities if the alternatives would not be protective of the health and safety of
12 the state.

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

17 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the
18 first five years the proposed amendments and repeals are in effect, the amendments will not create or
19 eliminate a government program; will not require the creation of new employee positions and will not
20 require the elimination of existing employee positions; will not require an increase or decrease in future
21 legislative appropriations to the department; will require an increase in fees paid to the department by
22 certain license holders who are required to file a license amendment; will expand existing regulations,
23 delete some existing regulations, and make other existing regulations more flexible as described in the

1 explanation section of this proposal; will repeal existing regulations to improve overall organization of
2 department rules in conjunction with other proposals published in this issue of the *Texas Register*; will
3 not increase or decrease the number of individuals subject to the rule's applicability; and will positively
4 affect the Texas economy by deterring fraud and preventing consumer harm.

5 **REQUEST FOR PUBLIC COMMENT.** If you want to comment on the proposal, submit your written
6 comments by 5:00 p.m. Central Time on January 28, 2024. A request for a public hearing must be sent
7 separately from your written comments. Send written comments or hearing requests by email to
8 *rules@txdmv.gov* or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000
9 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments
10 and public testimony presented at the hearing.

11 **STATUTORY AUTHORITY.** The department proposes amendments to Chapter 221 under Government
12 Code, §411.122(d), which authorizes department access to criminal history record information
13 maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal
14 history record information from DPS and the FBI for license applicants, license holders, and
15 representatives whose act or omission would be cause for denying, revoking, or suspending a license
16 issued under Occupations Code, Chapter 2302; Occupations Code, §2302.051, which authorizes the board
17 to adopt rules as necessary to administer Occupations Code, Chapter 2302; Occupations Code, §2302.052,
18 which assigns the board a duty to set reasonable and necessary application fees, license fees, renewal
19 fees, and other fees as required to implement the chapter; Occupations Code, §2302.103, which requires
20 a salvage vehicle dealer to apply for a license on a form prescribed by the department and pay an
21 application fee; Occupations Code, §2302.104, which prescribes content that must be included in an
22 application; Occupations Code, §2302.105, which requires the department to complete an investigation
23 of the applicant's qualifications before issuing a license; Occupations Code, §2302.108, which authorizes

1 the department to deny, suspend, revoke, or reinstate a license issued under Chapter 2302 consistent
2 with the requirements of Government Code, Chapter 2001; and Transportation Code, §1002.001, which
3 authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the
4 duties of the department.

5 **CROSS REFERENCE TO STATUTE.** These rule revisions would implement Government Code, Chapter 411
6 and 2001; Occupations Code, Chapter 2302; and Transportation Code, Chapter 1002.

7

8 SUBCHAPTER A. GENERAL PROVISIONS

9 **43 TAC §221.1 and §221.2**

10

11 **STATUTORY AUTHORITY.**

12 The department proposes amendments to Chapter 221 under Government Code, §411.122(d), which
13 authorizes department access to criminal history record information maintained by DPS; Government
14 Code, §411.12511, which authorizes the department to obtain criminal history record information from
15 DPS and the FBI for license applicants, license holders, and representatives whose act or omission would
16 be cause for denying, revoking, or suspending a license issued under Occupations Code, Chapter 2302;
17 Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer
18 Occupations Code, Chapter 2302; Occupations Code, §2302.052, which assigns the board a duty to set
19 reasonable and necessary application fees, license fees, renewal fees, and other fees as required to
20 implement Chapter 2302; Occupations Code, §2302.103, which requires a salvage vehicle dealer to apply
21 for a license on a form prescribed by the department and pay an application fee; Occupations Code,
22 §2302.104, which prescribes content that must be included in an application; Occupations Code,
23 §2302.105, which requires the department to complete an investigation of the applicant's qualifications

1 before issuing a license; Occupations Code, §2302.108, which authorizes the department to deny,
2 suspend, revoke, or reinstate a license issued under Chapter 2302 consistent with the requirements of
3 Government Code, Chapter 2001; and Transportation Code, §1002.001, which authorizes the board to
4 adopt rules that are necessary and appropriate to implement the powers and the duties of the
5 department.

6 The department also proposes amendments under the authority of Occupations Code,
7 §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles
8 and to take any action that is necessary or convenient to exercise that authority; Transportation Code,
9 §§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, and 2001.039, and 2001.054, in
10 addition to the statutory authority referenced throughout this preamble.

11 Transportation Code, §501.0041 authorizes the department to adopt rules to administer
12 Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt
13 rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the
14 department to adopt rules to administer Transportation Code, Chapter 503.

15 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature
16 and requirements of all available formal and informal procedures. Government Code, §2001.039 requires
17 state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.
18 Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation,
19 suspension, annulment, or withdrawal of a license.

20 CROSS REFERENCE TO STATUTE. These rule revisions would implement Government Code,
21 Chapters 411 and 2001; Occupations Code, Chapters 53, 55, 2301, and 2302; and Transportation Code,
22 Chapters 501–503, 1001–1003, and 1005.

23

1 **Text.**

2 221.1. Purpose and Scope.

3 Transportation Code, §1001.002, provides that the department shall administer and enforce
4 Occupations Code, Chapter 2302. Chapter 2302 provides that a person may not act as a salvage vehicle
5 dealer, unless the department issues that person a salvage vehicle dealer license, or an independent motor
6 vehicle dealer's general distinguishing number issued under Chapter 503, Transportation Code, or a person
7 is exempt from licensure under Occupations Code, Chapter 2302. This chapter describes the procedures
8 by which a person obtains a salvage vehicle dealer license and the rules governing how a license holder or
9 an independent motor vehicle dealer with authority to operate as a salvage vehicle dealer, must operate,
10 and the procedures by which the department will administer and enforce Occupations Code, Chapter
11 2302, and this chapter.

12

13 221.2. Definitions.

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

16 (1) Board--The Board of the Texas Department of Motor Vehicles.

17 (2) Casual sale--A sale as defined by Transportation Code, §501.091.

18 (3) Component part--As defined by Occupations Code, §2302.251.

19 (4) Day--Means a calendar day unless otherwise stated or context clearly indicates
20 otherwise. [~~Corporation--A business entity, including a corporation, or limited liability company, but not a~~

1 ~~sole proprietorship or general partnership, which has filed a certificate of formation or registration with~~
2 ~~the Texas Secretary of State.]~~

3 (5) Department--The Texas Department of Motor Vehicles.

4 (6) Director--Means the division director that regulates the distribution and sales of motor
5 vehicles, including any department staff to whom the director delegates any duty assigned under this
6 chapter. [~~Final order authority--The person with authority under Occupations Code, Chapter 2302, or~~
7 ~~board rules to issue a final order.]~~

8 (7) General Distinguishing Number (GDN)--As defined by Occupations Code,
9 §2301.002(17).

10 (8) ~~[(7)]~~ License holder--A person that holds a salvage vehicle dealer license or an
11 independent motor vehicle dealer GDN that authorizes the dealer to operate as a salvage vehicle dealer
12 [issued by the department].

13 ~~[(8) Major component part--As defined by Transportation Code, §501.091.]~~

14 (9) Metal recycler--As defined by Transportation Code, §501.091.

15 ~~[(10) Minor component part--As defined by Occupations Code, §2302.251.]~~

16 (10)~~[(11)]~~ Nonrepairable motor vehicle--As defined by Transportation Code, §501.091.

17 (11) ~~[(12)]~~ Nonrepairable record of title--As defined by Transportation Code, §501.091.

18 (12) ~~[(13)]~~ Nonrepairable vehicle title--As defined by Transportation Code, §501.091.

19 (13) ~~[(14)]~~ Out-of-state buyer--As defined by Transportation Code, §501.091.

1 (14) [(15)] Out-of-state ownership document--As defined by Transportation Code,
2 §501.091.

3 (15) [(16)] Person--Has the meaning assigned by Occupations Code, §2301.002.~~[A natural~~
4 ~~person, partnership, corporation, trust, association, estate, or any other legal entity.]~~

5 (16) [(17)] Public highway--As defined by Transportation Code, §502.001.

6 (17) [(18)] Retail sale--As defined by Occupations Code, §2301.002.

7 (18) [(19)] Salvage motor vehicle--As defined by Transportation Code, §501.091.

8 (19) [(20)] Salvage record of title--As defined by Transportation Code, §501.091.

9 (20) [(21)] Salvage vehicle dealer--As defined by Transportation Code, §501.091.

10 (21) [(22)] Salvage vehicle title--As defined by Transportation Code, §501.091.

11 (22) [(23)] Used part--As defined by Transportation Code, §501.091.

12

13 SUBCHAPTER B. LICENSING

14 **43 TAC §§221.11–221.20**

15 **STATUTORY AUTHORITY.** The department proposes amendments to Chapter 221 under Government
16 Code, §411.122(d), which authorizes department access to criminal history record information
17 maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal
18 history record information from DPS and the FBI for license applicants, license holders, and
19 representatives whose act or omission would be cause for denying, revoking, or suspending a license
20 issued under Occupations Code, Chapter 2302; Occupations Code, §2302.051, which authorizes the board
21 to adopt rules as necessary to administer Occupations Code, Chapter 2302; Occupations Code, §2302.052,

1 which assigns the board a duty to set reasonable and necessary application fees, license fees, renewal
2 fees, and other fees as required to implement Chapter 2302; Occupations Code, §2302.103, which
3 requires a salvage vehicle dealer to apply for a license on a form prescribed by the department and pay
4 an application fee; Occupations Code, §2302.104, which prescribes content that must be included in an
5 application; Occupations Code, §2302.105, which requires the department to complete an investigation
6 of the applicant’s qualifications before issuing a license; Occupations Code, §2302.108, which authorizes
7 the department to deny, suspend, revoke, or reinstate a license issued under Chapter 2302 consistent
8 with the requirements of Government Code, Chapter 2001; and Transportation Code, §1002.001, which
9 authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the
10 duties of the department.

11 The department also proposes amendments and under the authority of Transportation Code,
12 §§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, and 2001.039, and 2001.054, in
13 addition to the statutory authority referenced throughout this preamble.

14 Transportation Code, §501.0041 authorizes the department to adopt rules to administer
15 Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt
16 rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the
17 department to adopt rules to administer Transportation Code, Chapter 503.

18 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature
19 and requirements of all available formal and informal procedures. Government Code, §2001.039 requires
20 state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.
21 Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation,
22 suspension, annulment, or withdrawal of a license.

1 CROSS REFERENCE TO STATUTE. These rule revisions would implement Government Code, Chapters 411
2 and 2001; Occupations Code, Chapters 53, 55, 2301 and 2302; and Transportation Code, Chapters 501–
3 503, 1001–1003, and 1005.

4

5 **Text.**

6 221.11. License Required.

7 (a) A person must hold a salvage vehicle dealer license, or an independent motor vehicle
8 dealer's general distinguishing number issued under Chapter 503; Transportation Code to:

9 (1) act as a salvage vehicle dealer or rebuilder; or

10 (2) store or display a motor vehicle as an agent or escrow agent of an insurance
11 company.

12 (b) A person may not engage in the business of buying, selling or exchanging motor vehicles
13 that can be titled or registered to operate on public highways, including selling a salvage motor
14 vehicle that has been rebuilt, repaired or reconstructed, unless the person holds a general
15 distinguishing number issued by the department under Transportation Code, Chapter 503.

16 (c) The provisions of this subchapter do not apply to a person exempt from licensure under
17 Occupations Code, Chapter 2302. [∴]

18 [~~(1) a person who purchases no more than five (5) nonrepairable or salvage motor~~
19 ~~vehicles at casual sale in a calendar year from:]~~

20 [~~(A) a salvage vehicle dealer; or]~~

21 [~~(B) an insurance company;]~~

1 ~~[(2) a metal recycler, unless a motor vehicle is sold, transferred, released, or~~
2 ~~delivered to the metal recycler for the purpose of reuse or resale as a motor vehicle, or as a source~~
3 ~~of used parts, and is used for that purpose;]~~

4 ~~[(3) a person who casually repairs, rebuilds, or reconstructs no more than five (5)~~
5 ~~salvage motor vehicles in the same calendar year;]~~

6 ~~[(4) a person who is a non-United States resident who purchases nonrepairable or~~
7 ~~salvage motor vehicles for export only;]~~

8 ~~[(5) an agency of the United States, an agency of this state, or a local government;]~~

9 ~~[(6) a financial institution or other secured party that holds a security interest in a~~
10 ~~motor vehicle and is selling that motor vehicle in the manner provided by law for the forced sale of~~
11 ~~a motor vehicle;]~~

12 ~~[(7) a receiver, trustee, administrator, executor, guardian, or other person appointed~~
13 ~~by or acting pursuant to the order of a court;]~~

14 ~~[(8) a person selling an antique passenger car or truck that is at least 25 years old or~~
15 ~~a collector selling a special interest motor vehicle as defined in Transportation Code, §683.077, if~~
16 ~~the special interest vehicle is at least 12 years old; and]~~

17 ~~[(9) a licensed auctioneer who, as a bid caller, sells or offers to sell property to the~~
18 ~~highest bidder at a bona fide auction under the following conditions:]~~

19 ~~[(A) neither legal nor equitable title passes to the auctioneer;]~~

20 ~~[(B) the auction is not held for the purpose of avoiding a provision of~~
21 ~~Occupations Code, Chapter 2302, or this subchapter; and]~~

1 ~~[(C) the auction is conducted of motor vehicles owned, legally or equitably,~~
2 ~~by a person who holds a salvage vehicle dealer's license and the auction is conducted at their~~
3 ~~licensed location or at a location approved by the department.]~~

4

5 221.13. License Terms and Fees.

6 (a) The term of a salvage vehicle dealer license issued by the department under Occupations
7 Code, Chapter 2302, and this chapter, is two years. The fee for a salvage vehicle dealer license is
8 \$190. The entire amount of the fee is due at the time of application for the license.

9 (b) The department may prorate the fee for a salvage vehicle dealer license to allow the
10 salvage vehicle dealer license to expire on the same day as another license issued by the department
11 under Occupations Code, Chapter 2301; Chapter 2302; or Transportation Code, Chapter 503.

12 (c) The fee for a license amendment is \$25.

13

14 221.14. License Applications Generally.

15 (a) A salvage vehicle dealer license may be issued for multiple locations within a single county. A
16 separate license and fee is required for a business location ~~[or locations located]~~ in another county.

17 (b) An application for a new license, license amendment, or license renewal filed with the
18 department must be: ~~[A license applicant must submit a signed application on a form prescribed by the~~
19 ~~department, provide any required attachments, and remit the required fees at the time of submission of~~
20 ~~the application.]~~

21 (1) on a form approved by the department;

1 (2) completed by the applicant, license holder, or authorized representative who is an
2 employee, a licensed attorney, or a certified public accountant; and

3 (3) accompanied by the required fee from an account held by the applicant or license
4 holder, or from a trust account of the applicant's or license holder's attorney or certified public accountant.

5 (c) License applications and fees must be submitted to the department electronically in a system
6 designated by the department for licensing. Fees may be paid by credit card or electronic funds transfer.

7 (d) In evaluating a new or renewal salvage vehicle dealer license application or an application for
8 a new location, the department may require a site visit to determine if the business location meets the
9 requirements in this chapter.

10 (e) An applicant for a salvage vehicle dealer license must also comply with fingerprint
11 requirements in §211.6 of this title (relating to Fingerprint Requirements for Designated License Applicants
12 and License Holders).

13 (f) The department will not provide information regarding the status of an application, application
14 deficiencies, or pending new license numbers to a person other than a person listed in subsection (b)(2)
15 of this section unless the person files a written request under Government Code, Chapter 552.

16

17 221.15. Required License Application Information.

18 (a) An applicant for a new salvage dealer license must register for an account in the department-
19 designated licensing system by selecting the licensing system icon on the dealer page of the department
20 website. An applicant must designate the account administrator and provide the name and email address
21 for that person, and provide the business telephone number, name, business type, and social security

1 number or employer identification number, as applicable. The applicant’s licensing account administrator
2 must be an owner, officer, manager, or bona fide employee.

3 (b) Once registered, an applicant for a new salvage dealer license may apply for a license and must
4 provide the following: [~~The following information must be provided on each salvage vehicle dealer~~
5 ~~application:~~]

6 (1) the application reason [~~full legal name of the applicant~~];

7 (2) business information including:

8 (A) the name, provided that the applicant may not use a name or assumed name
9 under which the applicant is authorized to do business that may be confused with or is similar to that of a
10 governmental entity or that is otherwise deceptive or misleading to the public;

11 (B) mailing address;

12 (C)[~~(2)~~] the full business physical address, including number, street, municipality,
13 county, and zip code for each location where the applicant will conduct business [~~under the license if each~~
14 ~~location is~~]in the same county;

15 (D) business email;

16 (E) telephone number;

17 (F) Texas Sales Tax Identification Number;

18 (G) National Motor Vehicle Title Information System (NMVTIS) Identification
19 Number;

20 (H) Secretary of State file number, if applicable; and

1 (l) website address, if applicable.

2 (3) application contact name, email address, and telephone number [~~the business~~
3 ~~telephone number and email address~~];

4 (4) the name, social security number, date of birth, identity document information, and
5 ownership percentage for each owner, partner, member, beneficiary, or principal if the applicant is not a
6 publicly traded company [~~the mailing address~~];

7 (5) the name, social security number, date of birth, and identity document information for
8 each officer, director, manager, trustee, or other representative authorized to act on behalf of the applicant
9 if the applicant is owned in full or in part by a legal entity; [~~a statement acknowledging that the department~~
10 ~~will consider the applicant's designated mailing address the applicant's last known address for department~~
11 ~~communication, including service of process under Subchapter E of this chapter (relating to Administrative~~
12 ~~Procedures). The designated mailing address will be considered applicant's last known address until such~~
13 ~~time that the mailing address is changed in the licensing records of the department after the license holder~~
14 ~~submits an amendment to change the license holder's mailing address;~~]

15 (6) the name, employer identification number, ownership percentage, and non-profit or
16 publicly-traded status for each legal entity that owns the applicant in full or in part; [~~all assumed names as~~
17 ~~registered with the secretary of state or county clerk, as applicable;~~]

18 (7) the name, social security number, date of birth, and identity document information of
19 at least one manager or other bona fide employee who will be present at the business location if the
20 license holder is out of state or will not be present during business hours at the business location in Texas;
21 [~~if applying as a sole proprietor, the social security number, address and telephone number for the sole~~
22 ~~proprietor;~~]

1 (8) criminal history record information under the laws of Texas, another state in the United
2 States, the United States, and any foreign jurisdiction for each person listed in the application, including
3 offense description, date, and location; [if applying as a general partnership, the social security number,
4 address and telephone number for each of the general partners;]

5 (9) military service status; [if applying as a limited partnership, limited liability company,
6 or corporation, the full name, social security number, address and telephone number for each officer or
7 director of the corporation, each member, officer, or manager of the limited liability company, each
8 partner, and each officer of the limited partnership, including the information for the general partner
9 based on the type of entity;]

10 (10) licensing history required to evaluate business reputation, character, and fitness for
11 licensure including a statement indicating whether the applicant or any person described in §211.2 of this
12 title (relating to Application of Subchapter) has previously applied for a license under this chapter or the
13 salvage vehicle dealer licensing laws of another jurisdiction, the result of the previous application, and
14 whether the applicant, including a person described in §211.2 of this title, has ever been the holder of a
15 license issued by the department or another jurisdiction that was revoked, suspended, or subject of an
16 order issued by the board or by another jurisdiction to pay an administrative penalty that remains unpaid;
17 [the state sales tax number;]

18 (11) information about each business location and business premises to demonstrate
19 compliance with related rules in this chapter; [the National Motor Vehicle Title Information System
20 (NMVTIS) number evidencing that the applicant is registered with NMVTIS;]

21 (12) signed Certification of Responsibility, which is a form provided by the department;
22 and [a statement indicating whether the applicant or any person described in §211.2 of this title (relating

1 ~~to Application of Subchapter) has previously applied for a license under this chapter or the salvage vehicle~~
2 ~~dealer licensing laws of another jurisdiction, the result of the previous application, and whether the~~
3 ~~applicant, including a person described in §211.2 of this title, has ever been the holder of a license issued~~
4 ~~by the department or another jurisdiction that was revoked, suspended, or subject of an order issued by~~
5 ~~the board or by another jurisdiction to pay an administrative penalty that remains unpaid;]~~

6 (13) any other information required by the department to evaluate the application under
7 current law and board rules. [~~a statement indicating whether the applicant has an ownership,~~
8 ~~organizational, affiliation, or other business arrangement that would allow a person to direct the~~
9 ~~management, policies, or activities of an applicant or license holder, whether directly or indirectly, who~~
10 ~~was the holder of a license issued by the department or by another jurisdiction that was revoked,~~
11 ~~suspended, or subject of an order issued by the board or by another jurisdiction to pay an administrative~~
12 ~~penalty that remains unpaid;]~~

13 [(14) details of the criminal history of the applicant and any person described in §211.2 of
14 ~~this title;]~~

15 [(15) details of the professional information of the applicant and any person described in
16 ~~§211.2 of this title;]~~

17 [(16) ~~a statement that the applicant at the time of submitting the application is in~~
18 ~~compliance, and, after issuance of a license, will remain in compliance, with all ordinances and rules of~~
19 ~~the municipality or county of each location where the applicant will conduct business; and]~~

20 [(17) ~~an acknowledgement that the applicant understands, is, and will remain in~~
21 ~~compliance with all state and federal laws relating to the licensed activity.]~~

1 (c) A salvage vehicle dealer renewing or amending its license must verify current license
2 information and provide related information for any new requirements or changes to the license.

3

4 221.16. Required Attachments to the License Application.

5 A legible and accurate electronic image of each applicable required document must be attached
6 to the license application:

7 (1) the certificate of filing, certificate of incorporation, or certificate of registration on file
8 with the Secretary of State, if applicable;

9 (2) each assumed name certificate on file with the Secretary of State or county clerk;

10 (3) at least one of the following valid and current identity documents for each natural
11 person listed in the application:

12 (A) driver's license;

13 (B) Texas Identification Card issued by the Texas Department of Public Safety
14 under Transportation Code, Chapter 521, Subchapter E;

15 (C) license to carry a handgun issued by the Texas Department of Public Safety
16 under Government Code, Chapter 411, Subchapter H;

17 (D) United States or foreign passport; or

18 (E) United States military identification card;

19 (4) documents proving business premises ownership, or a fully executed lease or sublease
20 agreement for the license period;

1 (5) business premises photos and a notarized affidavit certifying that all premises
2 requirements in Subchapter C of the chapter are met and will be maintained during the license period;

3 (6) Texas Use and Sales Tax Permit;

4 (7) Franchise Tax Account Status issued by the Comptroller’s Office; and

5 (8) any other documents required by the department to evaluate the application under
6 current law and board rules.

7 ~~[(a) If the applicant is a sole proprietor or general partnership, in addition to the information~~
8 ~~required by §221.15 of this title (relating to Required License Application Information), the applicant must~~
9 ~~submit a legible copy of one of the following types of identification that is valid and active at the time of~~
10 ~~application for the sole proprietor and each of the general partners:]~~

11 ~~[(1) driver's license, Department of Public Safety identification, or state identification~~
12 ~~certificate issued by a state or territory of the United States;]~~

13 ~~[(2) concealed handgun license or license to carry a handgun issued by the Department~~
14 ~~of Public Safety under Government Code, Chapter 411, Subchapter H;]~~

15 ~~[(3) United States or foreign passport;]~~

16 ~~[(4) United States Department of Homeland Security, United States Citizenship and~~
17 ~~Immigration Services, or United States Department of State Identification document;]~~

18 ~~[(5) United States military identification card; or]~~

19 ~~[(6) North Atlantic Treaty Organization identification or identification issued under a Status~~
20 ~~of Forces Agreement.]~~

1 ~~[(b) If the applicant is a limited partnership, limited liability company, or a corporation, the~~
2 ~~applicant must submit a legible copy of one of the following current types of identification that is valid and~~
3 ~~active at the time of application for each partner of the limited partnership, each member of the limited~~
4 ~~liability company, and for each officer of the corporation:]~~

5 ~~[(1) driver's license, Department of Public Safety identification, or state identification~~
6 ~~certificate issued by a state or territory of the United States;]~~

7 ~~[(2) concealed handgun license or license to carry a handgun issued by the Department~~
8 ~~of Public Safety under Government Code, Chapter 411, Subchapter H;]~~

9 ~~[(3) United States or foreign passport;]~~

10 ~~[(4) United States Department of Homeland Security, United States Citizenship and~~
11 ~~Immigration Services, or United States Department of State Identification document;]~~

12 ~~[(5) United States military identification card; or~~

13 ~~(6) North Atlantic Treaty Organization identification or identification issued under a Status~~
14 ~~of Forces Agreement.]~~

15 ~~[(c) If the applicant is a corporation, the applicant must submit a copy of the certificate of~~
16 ~~incorporation issued by the secretary of state or a certificate issued by the jurisdiction where the applicant~~
17 ~~is incorporated, and a verification that, at the time the application is submitted, all business franchise taxes~~
18 ~~of the corporation have been paid.]~~

19 ~~[(d) If the applicant is a limited partnership, the applicant must submit a copy of the certificate of~~
20 ~~partnership issued by the secretary of state or a certificate issued by the jurisdiction where the applicant~~

1 ~~is formed, and verification that, at the time the application is submitted, all business franchise taxes of the~~
2 ~~limited partnership have been paid.]~~

3 ~~[(e) Upon request by the department, the applicant shall submit documents demonstrating that~~
4 ~~the applicant owns the real property on which the business is situated or has a written lease for the~~
5 ~~property that has a term of not less than the term of the license.]~~

6 ~~[(f) If the applicant is a sole proprietor or general partnership, in addition to the information~~
7 ~~required by §221.15, the applicant must submit a legible copy of the Assumed Name Certificate (DBA)~~
8 ~~issued by the county clerk in which the business is located.]~~

9 ~~[(g) If the applicant is a limited partnership, limited liability company, or a corporation, the~~
10 ~~applicant must submit a legible copy of the Assumed Name Certificate (DBA) as registered with the Texas~~
11 ~~Secretary of State's office.]~~

12 ~~[(h) If the applicant is a sole proprietor or general partnership, in addition to the information~~
13 ~~required by §221.15, the applicant must submit a legible copy of the Texas Sales and Use Tax Permit.]~~

14 ~~[(i) If the applicant is a limited partnership, limited liability company, or a corporation, the~~
15 ~~applicant must submit a legible copy of the Texas Sales and Use Tax Permit.]~~

16

17 221.17. License Processing for Military Service Members, Spouses, and Veterans.

18 (a) The department will process a license, amendment, or renewal application submitted for
19 licensing of a military service member, military spouse, or military veteran in accordance with Occupations
20 Code, Chapter 55. A license holder who fails to timely file a sufficient renewal application because the
21 license holder was on active duty is exempt from any increased fee or penalty imposed by the department.

1 (b) A military service member or military spouse may engage in a business or occupation for which
2 a department issued license is required if the military service member or military spouse meets the
3 requirements of Occupations Code, §55.0041 and this section.

4 (1) A military service member or ~~[To meet the requirements of Occupations Code,~~
5 ~~§55.0041, a]~~ military spouse must submit to the department:

6 (A) notice of the military service member or military spouse's intent to engage in
7 a business or occupation in Texas for which a department issued license is required;

8 (B) proof of the military service member being stationed ~~[military spouse's~~
9 ~~residency]~~ in Texas and a copy of the military service member or military spouse's military identification
10 card ~~[, as required by Occupations Code, §55.0041(b)(2)]~~; and

11 (C) documentation demonstrating that the military service member or military
12 spouse is licensed and in good standing in another jurisdiction for the relevant business or occupation.

13 (2) Upon receipt of the notice and documentation required by paragraphs (1)(B) and (1)(C)
14 of this subsection the department shall:

15 (A) confirm with the other licensing jurisdiction that the military service member
16 or military spouse is currently licensed and in good standing for the relevant business or occupation; and

17 (B) conduct a comparison of the other jurisdiction's license requirements,
18 statutes, and rules with the department's licensing requirements to determine if the requirements are
19 substantially equivalent.

20 (3) If the department confirms that a military service member or military spouse is
21 currently licensed in good standing in another jurisdiction with substantially equivalent licensing
22 requirements, the department shall ~~[may]~~ issue a license to the military service member or military
23 spouse for the relevant business or occupation within 30 days. The license is subject to the requirements

1 of this chapter and Occupations Code, Chapter 2302 in the same manner as a license issued under the
2 standard application process, unless exempted or modified under Occupations Code, Chapter 55.

3 (c) This section establishes requirements and procedures authorized or required by Occupations
4 Code, Chapter 55, and does not modify or alter rights that may be provided under federal law.

5

6 221.18. Additional, New, or Closed Location.

7 (a) If the license holder intends to conduct business at more than one location within the same
8 county, the applicant must:

9 (1) notify the department no later than 10 days before opening the additional location by
10 electronically submitting a license amendment application in the department-designated licensing system;
11 ~~[to amend the license to add an additional location;]~~

12 (2) acknowledge that the additional location ~~[, at the time of submitting the amendment,]~~
13 is and will remain in compliance with all ordinances and rules of the municipality or county for the
14 additional location and board rules; and

15 (3) obtain approval from the department before conducting business at the additional
16 location.

17 (b) If the license holder intends to relocate its business to a new location within the same county,
18 the license holder must:

19 (1) notify the department no later than 10 days before opening the new location by
20 electronically submitting a license amendment application in the department-designated licensing system

1 ~~[to amend the license]~~ to add a new location and remove the existing location from the department's
2 records;

3 (2) acknowledge that the new location ~~[,at the time of submitting the amendment,]~~ is and
4 will remain in compliance with all ordinances and rules of the municipality or county for the new location
5 and board rules; and

6 (3) obtain approval from the department before conducting business at the new location.

7 (c) A license holder must notify the department in writing within 10 days of ~~[the]closing [of]a~~
8 business location by electronically submitting a license amendment application in the department-
9 designated licensing system to delete the location if more than one location is listed on the license, or
10 closing the license if a single location is listed on the license.

11 (d) If a license holder is opening a new location not located in the same county, the license holder
12 must apply for a new license.

13

14 221.19. Notice of Change in [of] License Holder [Holder's Name, Ownership, or Control] Information.

15 (a) A license holder shall notify the department by electronically submitting a license amendment
16 application in the department-designated licensing system to amend its license within 30 days of a change
17 in the license holder's business name or assumed name. Upon submission of an amendment to change
18 the business name or assumed name, the department shall reflect the new business name in the
19 department's records. The dealer shall retain the same salvage vehicle dealer license number except if the
20 business name change is the result of a change in the type of entity being licensed, such as a sole

1 proprietorship becoming a corporation, or if the ownership of the business changes as discussed in
2 subsection (b) of this section.

3 (b) A salvage vehicle dealer shall notify the department by electronically submitting a license
4 amendment application in the department-designated licensing system [~~by submitting a request for~~
5 ~~license amendment~~] within 30 days of a change to:

6 (1) the entity type of the applicant or license holder;

7 (2) the departure or addition of any person reported to the department in the original
8 license application or most recent renewal application, including any person described in §211.2 of this
9 title (relating to Application of Subchapter);

10 (3) an ownership, organizational, managerial, or other business arrangement that would
11 allow the power to direct or cause the direction of the management and policies and activities of an
12 applicant or license holder, whether directly or indirectly, to be established in or with a person not
13 described in paragraph (1) or (2) of this subsection; or

14 (4) a business email address, telephone number, mailing address, or change in license
15 contact.

16 (c) The license holder must submit to the department [~~a notice of change and~~] all information
17 required by the department to evaluate the license amendment application under current law and rules
18 [~~needed for that specific license modification~~].

19

20 221.20. License Renewal.

1 (a) A salvage vehicle dealer license expires on the second anniversary of the date the license was
2 issued [~~of issuance of the salvage vehicle dealer license~~].

3 (b) The salvage vehicle dealer license may be renewed for an additional period of two years upon
4 timely submission of a renewal application on a form approved by the department with all required
5 information, attachments, and fees. A renewal application is considered "timely" submitted if the renewal
6 application with all required information, attachments, and required fees are received by the department
7 on or before the expiration date of the existing license.

8 (c) The department will send a written notice of expiration to a license holder's [~~salvage vehicle~~
9 ~~dealer's~~] email address at least 31 [~~30~~] days before expiration of a license.

10 (d) Failure by the department to send written notice of expiration under this section does not
11 relieve a license holder from timely renewing a license.

12 (e) The renewal fee for salvage vehicle dealer license is \$170.

13 (f) A license holder may renew an expired license by submitting a renewal application and paying
14 a late renewal fee of \$85 in addition to the renewal fee, if 90 or fewer days have elapsed since the license
15 expired.

16 (g) A license holder may renew an expired license by submitting a renewal application and paying
17 a late renewal fee of \$170 in addition to the renewal fee, if more than 90 days but less than one year has
18 elapsed since the license expired.

19 (h) If a license has been expired for [~~a period of~~] one year or longer and the department has not
20 received [~~is not in receipt of~~] a renewal application [~~with all required information and attachments~~], the

1 department will close the license, and the license holder must apply for a new license [in the same manner
2 as an applicant for an initial license].

3 (i) In accordance with Government Code, §2001.054, a license holder that timely submits a
4 renewal application under subsection (b) of this section may continue to operate under the expired license
5 until the status of the renewal application is determined by the department.

6 (j) [(+)] If the department does not receive a timely [is not in receipt of a] renewal application with
7 all required information and attachments and the applicable renewal fee on or before [prior to] the license
8 expiration date [cancellation date of the license], a salvage vehicle dealer may not engage in the activities
9 that require the license until the license has been renewed by the department.

10

11 SUBCHAPTER C. LICENSED OPERATIONS

12 **43 TAC §§221.41–221.47 and 221.49–221.54**

13 **STATUTORY AUTHORITY.** The department proposes amendments to Chapter 221 under §2302.051,
14 which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302;
15 Occupations Code, §2302.108, which authorizes the department to deny, suspend, revoke, or reinstate a
16 license issued under Chapter 2302 consistent with the requirements of Government Code, Chapter 2001;
17 and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and
18 appropriate to implement the powers and the duties of the department.

19 The department also proposes amendments and under the authority of Occupations Code, §2301.151,
20 which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the
21 authority to take any action that is necessary or convenient to exercise that authority; Transportation
22 Code, §§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, and 2001.039, and
23 2001.054, in addition to the statutory authority referenced throughout this preamble.

1 Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation
2 Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to
3 administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the department
4 to adopt rules to administer Transportation Code, Chapter 503.

5 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and
6 requirements of all available formal and informal procedures. Government Code, §2001.039 requires
7 state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.
8 Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation,
9 suspension, annulment, or withdrawal of a license.

10 CROSS REFERENCE TO STATUTE. These new rules would implement Government Code, Chapter 2001;
11 Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501–503, 1001–1003,
12 and 1005.

13

14 **Text.**

15 221.41. Location Requirements.

16 A salvage vehicle dealer must meet and maintain the following requirements at each licensed
17 business location [~~and must maintain the following requirements~~] during the [entire] term of the
18 license.

19 (1) If the licensed business location is not owned by the license holder, the license
20 holder must maintain a lease that is continuous during the period of time for which the license will
21 be issued [~~that extends through the period for which the license will be issued~~]. The lease agreement
22 must be on a properly executed form [~~an executed lease contract~~] containing at a minimum:

1 (A) the name of the property owner as the lessor of the premises and the
2 name of the dealer as the tenant or lessee of the premises [~~the names of the lessor and lessee~~];

3 (B) the period of time for which the lease is valid; [~~and~~]

4 (C) the street address or legal description of the property, provided that if
5 only a legal description of the property is provided, the license holder must attach a statement
6 verifying that the property description in the lease agreement is the physical street address
7 identified on the application; [-]

8 (D) the signature of the property owner as the lessor and the signature of the
9 dealer as the tenant or lessee; and

10 (E) if the lease agreement is a sublease in which the property owner is not
11 the lessor, the dealer must also obtain a signed and notarized statement from the property owner
12 including the following information:

13 (i) property owner's full name, email address, mailing address, and
14 phone number; and

15 (ii) property owner's statement confirming that the dealer is
16 authorized to sublease the location and may operate a salvage vehicle dealer business from the
17 location.

18 (2) Any business location requirement in this subchapter are in addition to any
19 requirements by municipal [~~city~~] ordinance, county rule, or state law.

20

21 221.42. Operations Only at Licensed Business Location.

1 A salvage vehicle dealer may not sell or offer to sell a salvage motor vehicle~~[vehicles]~~ or non-
2 repairable motor vehicle~~[vehicles]~~ from any location other than a licensed ~~[the]~~ business location [
3 ~~that has been approved by the department~~].

4

5 221.43. Business Hours.

6 (a) The office of a salvage vehicle dealer who sells to a retail customer shall be open at least four
7 days per week for at least four consecutive hours per day and may not be open solely by appointment.
8 The office of a salvage pool operator selling only to a wholesale dealer must be open at least two weekdays
9 per week for at least two consecutive hours per day and may not be open solely by appointment. The
10 business hours must be posted at the main entrance of the business's office that is accessible to the public.

11 (b) The license holder or a bona fide employee of the license holder shall be at the licensed
12 business location during the posted business hours for the purpose of operating the salvage business and
13 allowing the inspection of the business location and records.

14 (c) If the license holder or a bona fide employee of the license holder is not available to conduct
15 business during the posted business hours due to special circumstances or emergencies, a separate sign
16 must be posted indicating the date and time the license holder or bona fide employee of the license holder
17 will resume operations at the licensed business location.

18 (d) Regardless of the license holder's business hours, the license holder's~~[licensee's]~~ telephone
19 must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering
20 service, voicemail service, or answering machine.

21

1 221.44. Business Sign Requirements.

2 (a) The license holder must display a permanent business sign with letters at least six inches in
3 height showing the license holder's business name or assumed name as reflected on the [~~license holder's~~
4]license issued by the department. A business sign is considered permanent only if it is made of durable,
5 weather-resistant material.

6 (b) A business[~~The~~] sign must be permanently mounted at [~~the~~]each physical business address
7 listed on the license. A business sign is considered permanently mounted if bolted to an exterior building
8 wall or bolted or welded to a dedicated sign pole or sign support permanently installed in the ground.

9 (c) A license holder may use a temporary sign or banner if that license holder can show proof that
10 a business sign that meets the requirements of this paragraph has been ordered and provides a written
11 statement that the business sign will be promptly and permanently mounted upon delivery.

12 (d) A license holder is responsible for ensuring that the business sign complies with municipal
13 ordinances, and that any lease signage requirements are consistent with the signage requirements in this
14 section.

15

16 221.45. Business Office.

17 (a) The license holder's office must be located at the licensed business [~~license~~] location in a
18 building with a permanent roof and connecting exterior walls on all sides.

19 (b) A license holder's office structure must comply with all applicable local zoning ordinances and
20 deed restrictions.

1 (c) A license holder's office may not be located within a residence, apartment house or building,
2 hotel, motel, ~~[or]~~rooming house, or any room or building not open to the public.

3 (d) A portable-type office structure may qualify as a business office only if the structure meets the
4 requirements of this section and is not a readily moveable trailer or other vehicle.

5 (e) A license holder's office may not be virtual or provided by a subscription for office space or
6 office services.

7 (f) The physical address of the salvage vehicle dealer's office must be in Texas, recognized by the
8 U.S. Postal Service, and have an assigned emergency services property address.

9 (g) A license holder's office must be equipped with internet access.

10

11 221.46. Display of License.

12 At each licensed business location, a [A] license holder must continuously display [at its business
13 location the original or copy of]the license issued by the department [at all times]in a conspicuous
14 manner that makes the license easily readable by the public [and is displayed in a conspicuous place at
15 each licensed business location for which the license is issued].

16

17 221.47. Evidence of Ownership.

18 A salvage vehicle dealer must receive a properly assigned salvage vehicle title, salvage record of
19 title, non-repairable vehicle title, non-repairable record of title, or out-of-state ownership document, as

1 applicable, when acquiring a non-repairable motor vehicle or salvage motor vehicle in accordance with
2 §217.86 of this title (relating to Dismantling, Scrapping, or Destruction of Motor Vehicles).

3

4 221.49. Unique Inventory Number.

5 Occupations Code, §2302.255, sets out the requirements for a salvage vehicle dealer in assigning
6 a unique inventory number when the salvage vehicle dealer purchases or takes delivery of a component
7 part.

8

9 221.50. Restrictions on Sales of Flood Damaged Vehicles.

10 (a) A motor vehicle that is ~~classified as~~ a non-repairable motor vehicle or salvage motor vehicle
11 based solely on flood damage may be sold or transferred only as provided by this section and §217.88 of
12 this title (relating to Sale, Transfer, or Release of Ownership of a Non-repairable or Salvage Motor Vehicle).

13 (b) A salvage vehicle dealer may sell, transfer, or release a non-repairable motor vehicle or salvage
14 motor vehicle if the salvage vehicle dealer provides ~~[to anyone if a non-repairable or salvage vehicle title~~
15 ~~or a comparable out-of-state ownership document has been issued for the motor vehicle _provided]~~ a
16 written disclosure ~~[has been made]~~ that the vehicle has been classified as a non-repairable motor vehicle
17 or salvage motor vehicle based solely on flood damage.

18 ~~[(c) If a non-repairable or salvage vehicle title or a comparable out-of-state ownership document~~
19 ~~has not been issued for the motor vehicle, a salvage vehicle dealer may only sell, transfer, or release a non-~~
20 ~~repairable motor vehicle or salvage motor vehicle to:]~~

21 ~~[(1) an insurance company;]~~

- 1 ~~[(2) a governmental entity;]~~
2 ~~[(3) a licensed salvage vehicle dealer;]~~
3 ~~[(4) an out-of-state buyer;]~~
4 ~~[(5) a metal recycler; or]~~
5 ~~[(6) a used automotive parts recycler, provided a written disclosure has been made that~~
6 ~~the vehicle has been classified as a non-repairable motor vehicle or salvage motor vehicle based solely on~~
7 ~~flood damage.]~~

8

9 221.51. Duty to Identify Motor Vehicles Offered for Sale.

10 (a) A salvage vehicle dealer shall place a notice ~~[sign]~~ on each salvage motor vehicle it displays or
11 offers for sale that:

12 (1) is visible from outside of the salvage motor vehicle;

13 (2) contains lettering that is two inches or more in height identifying the vehicle is a
14 salvage motor vehicle; and

15 (3) states as follows: *"This is a salvage titled vehicle that cannot be operated on a public*
16 *highway. If the salvaged vehicle is to be registered in Texas, the purchaser must apply to a county tax*
17 *assessor-collector's office, surrender the salvage title, submit the required information on repairs that have*
18 *been made to the vehicle and pay the applicable fees before the vehicle may be titled and/or registered to*
19 *operate on the public highway."*

1 (b) Upon the sale of a salvage motor vehicle, a salvage vehicle dealer shall obtain the purchaser's
2 signature to a disclosure statement written in eleven point or larger font that states as follows: "*I, (name*
3 *of purchaser), acknowledge that at the time of purchase, I am aware that: the vehicle is titled on a salvage*
4 *title; if I intend to operate the vehicle on a public highway in Texas, I am responsible for applying for a title*
5 *for this salvage vehicle through a Texas county tax assessor-collector's office accompanied by the required*
6 *forms showing that repairs have been made to the vehicle; I am responsible for paying the applicable fees;*
7 *and, I may not drive this salvage vehicle on a public highway until after a titled branded rebuilt salvage*
8 *and registration have been issued.*"

9 (c) A salvage vehicle dealer shall place a sign on each non-repairable motor vehicle it displays or
10 offers for sale that:

11 (1) is visible from outside of the non-repairable motor vehicle;

12 (2) contains lettering that is two inches or more in height; and

13 (3) states as follows: "*This is a non-repairable titled motor vehicle that can never be*
14 *operated on a public highway of this state [~~or any other state~~].*"

15 (d) Upon the sale of a non-repairable motor vehicle, a salvage vehicle dealer shall obtain the
16 purchaser's signature to a disclosure statement written in eleven point or larger font that states as follows:
17 "*I, (name of purchaser), acknowledge that at the time of purchase, I am aware that the vehicle is a non-*
18 *repairable vehicle; this vehicle will never be able to operate on a public highway of this state[~~or any other~~*
19 *state] and will never be registered to operate on a public highway of this state[~~or any other state~~]; and,*
20 *before selling this non-repairable vehicle I must have the non-repairable vehicle titled in my name.*"

21 (e) A salvage vehicle dealer shall maintain a copy of the written disclosures required by this section
22 as part of its records of sales in accordance with §221.73 of this title (relating to Content of Records).

1 (f) The notice requirements of subsections (a) and (c) can be met if the salvage vehicle dealer
2 conspicuously displays a permanent sign that ~~[single notice or notices if]~~ all of the vehicles being offered
3 for sale by the salvage vehicle dealer are salvage motor vehicles or non-repairable motor vehicles.

4 (g) If the salvage vehicle dealer conducts a sale of a salvage motor vehicle or a non-repairable
5 motor vehicle in Spanish or other foreign language, the notices and disclosures required by this section
6 shall be in that language.

7 (h) This section does not apply to a vehicle that is displayed or offered for sale by a salvage vehicle
8 dealer who operates solely as a salvage pool operator and only sells vehicles at wholesale ~~[person who~~
9 ~~holds a salvage pool license on the premises of the licensed salvage pool operator].~~

10

11 221.52. Export-only Sales.

12 (a) A license holder may sell a non-repairable motor vehicle or a salvage motor vehicle to a person
13 who resides in a jurisdiction outside the United States only as provided by Transportation Code, §501.099
14 and §217.88 of this title (relating to Sale, Transfer, or Release of Ownership of a Non-repairable or Salvage
15 Motor Vehicle).

16 ~~[(b) A license holder may accept any of the following types of government-issued photo~~
17 ~~identification documents to establish that the purchaser resides outside the United States:]~~

18 ~~[(1) passport;]~~

19 ~~[(2) driver's license;]~~

20 ~~[(3) consular identity document;]~~

1 ~~[(4) national identification certificate or identity document; or]~~

2 ~~[(5) other photo identification card issued by the jurisdiction where the purchaser resides~~
3 ~~that contains the name, address, and date of birth of the purchaser.]~~

4 (b)~~[(c)]~~ A legible copy of the purchaser's photo identification document must be maintained in the
5 records of the license holder for a period of 36 ~~[48]~~ months after the sale of a salvage motor vehicle or a
6 non-repairable motor vehicle for "export-only."

7 (c) ~~[(d)]~~ The limitation on the number of casual sales that may be made to a person under §221.53
8 of this title (relating to Casual Sales) does not apply to sales to a person who resides in a jurisdiction outside
9 the United States and who purchases salvage motor vehicles and non-repairable motor vehicles for
10 "export-only."

11
12 221.53. Casual Sales.

13 (a) A license holder may not make more than five (5) casual sales of salvage motor vehicles or non-
14 repairable motor vehicles during a calendar year to the same person.

15 (b) A license holder must maintain records of each casual sale made in accordance with §217.88
16 of this title (relating to Sale, Transfer, or Release of Ownership of a Non-repairable or Salvage Motor
17 Vehicle). ~~[during the previous 36 months, as provided by §221.72 of this title (relating to Record~~
18 ~~Retention). Such records must contain the following information regarding each casual sale:]~~

19 ~~[(1) the complete name, address and phone number of the purchaser;]~~

20 ~~[(2) a copy of one of the following valid and current photo identification documents for~~
21 ~~the purchaser:]~~

1 ~~[(A) driver's license, Department of Public Safety identification, or state~~
2 ~~identification certificate issued by a state or territory of the United States;]~~

3 ~~[(B) concealed handgun license or license to carry a handgun issued by the~~
4 ~~Department of Public Safety under Government Code, Chapter 411, Subchapter H;]~~

5 ~~[(C) United States or foreign passport;]~~

6 ~~[(D) United States Department of Homeland Security, United States Citizenship~~
7 ~~and Immigration Services, or United States Department of State Identification document;]~~

8 ~~[(E) United States military identification card; or]~~

9 ~~[(F) North Atlantic Treaty Organization identification or identification issued under~~
10 ~~a Status of Forces Agreement; and]~~

11 ~~[(3) the year, make, model, color and vehicle identification number for the salvage motor~~
12 ~~vehicle or non-repairable motor vehicle.]~~

13 (c) A person who purchases a salvage motor vehicle or a non-repairable motor vehicle through a
14 casual sale may not sell that salvage motor vehicle or non-repairable motor vehicle until the salvage
15 vehicle title, salvage record or title, non-repairable vehicle title or non-repairable record of title, as
16 applicable, is in the person's name.

17

18 221.54. Criteria for Site Visits.

19 In determining whether to conduct a site visit at an active salvage vehicle dealer's location, the
20 department will consider whether the dealer has:

- 1 (1) failed to respond to a records request;
- 2 (2) failed to operate from the license location; [~~or~~]
- 3 (3) an enforcement history that reveals failed compliance inspections or multiple
4 complaints with administrative sanctions being taken by the department; [~~or~~]
- 5 (4) a business location that fails to meet premises or operating requirements under this
6 chapter; or
- 7 (5) records that require further investigation by the department.
- 8

9 SUBCHAPTER C. LICENSED OPERATIONS.

10 **43 TAC §221.48**

11 **STATUTORY AUTHORITY.** The department proposes a repeal to Chapter 221 under §2302.051, which
12 authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302;
13 Occupations Code, §2302.108, which authorizes the department to deny, suspend, revoke, or reinstate a
14 license issued under Chapter 2302 consistent with the requirements of Government Code, Chapter 2001;
15 and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and
16 appropriate to implement the powers and the duties of the department.

17 The department also proposes repeals under the authority of Occupations Code, §2301.151, which gives
18 the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to
19 take any action that is necessary or convenient to exercise that authority; Transportation Code,
20 §§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, 2001.054, and 2001.039 in
21 addition to the statutory authority referenced throughout this preamble.

1 Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation
2 Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to
3 administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the department
4 to adopt rules to administer Transportation Code, Chapter 503.

5 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and
6 requirements of all available formal and informal procedures. Government Code, §2001.039 requires
7 state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.
8 Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation,
9 suspension, annulment, or withdrawal of a license.

10 CROSS REFERENCE TO STATUTE. This repeal would implement Government Code, Chapter 2001;
11 Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501–503, 1001–1003,
12 and 1005.

13

14 **Text.**

15 §221.48. Scrapped or Destroyed Motor Vehicle.

16

17 SUBCHAPTER D. RECORDS

18 **43 TAC §§221.71–221.73**

19 **STATUTORY AUTHORITY.** The department proposes amendments to Chapter 221 under §2302.051,
20 which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302;
21 Occupations Code, §2302.108, which authorizes the department to deny, suspend, revoke, or reinstate a
22 license issued under Chapter 2302 consistent with the requirements of Government Code, Chapter 2001;

1 and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and
2 appropriate to implement the powers and the duties of the department.

3 The department also proposes amendments and under the authority of Occupations Code, §2301.151,
4 which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the
5 authority to take any action that is necessary or convenient to exercise that authority; Transportation
6 Code, §§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, and 2001.039, and
7 2001.054, in addition to the statutory authority referenced throughout this preamble.

8 Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation
9 Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to
10 administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the department
11 to adopt rules to administer Transportation Code, Chapter 503.

12 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and
13 requirements of all available formal and informal procedures. Government Code, §2001.039 requires
14 state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.
15 Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation,
16 suspension, annulment, or withdrawal of a license.

17 CROSS REFERENCE TO STATUTE. These new rules would implement Government Code, Chapter 2001;
18 Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501–503, 1001–1003,
19 and 1005.

20

21 **Text.**

22 221.71. Records; Generally.

1 (a) A salvage vehicle dealer shall maintain a record of each salvage motor vehicle and non-
2 repairable motor vehicle purchased, sold, or exchanged by the salvage vehicle dealer.

3 (b) A salvage vehicle dealer's records must be maintained at the licensed business location.

4 (c) Any records required to be maintained by a license holder may be maintained in an electronic
5 format if the record can be reviewed and printed at the licensed business location or provided
6 electronically upon request ~~[by a representative]~~ of the department ~~[-at the time the requestor is at the~~
7 ~~business location]~~.

8 (d) A salvage vehicle dealer must make records available for review and copying upon request by
9 ~~[a representative of]~~ the department. The department may request records ~~[A request for records may be~~
10 ~~made by the department]~~ in person, by mail, or electronically from a department email or a department-
11 designated system ~~[by electronically document transfer]~~.

12 (e) ~~[Upon receipt of a request for review of records sent by mail or electronic document transfer~~
13 ~~from the department, a]~~ A salvage vehicle dealer must provide ~~[produce]~~ copies of requested ~~[specified]~~
14 records to the department ~~[requestor]~~ within 15 ~~[10 calendar]~~ days of receipt of the request ~~[-by mail or~~
15 ~~electronic document transfer]~~.

16 (f) Occupations Code, §2302.254, establishes the requirements that a salvage vehicle dealer
17 maintain a record of an inventory of component parts purchased by or delivered to the salvage vehicle
18 dealer.

19

20 221.72. Record Retention.

1 (a) A salvage vehicle dealer must retain at the licensed business location, or have electronic access
2 at the licensed business location of records stored electronically, a complete record of all purchases and
3 sales of salvage motor vehicles and nonrepairable motor vehicles for a minimum period of 36 months from
4 the date of the transaction.

5 (b) A salvage vehicle dealer shall maintain at the licensed business location a record of each vehicle
6 that is dismantled, scrapped or destroyed, and a photocopy of the front and back of all salvage vehicle
7 titles and nonrepairable vehicle titles, or a photocopy or electronic copy of all salvage records of title, and
8 nonrepairable records of title, and, if applicable, a photocopy of any out-of-state evidence of ownership
9 surrendered to the department, until the third ~~fourth~~ anniversary of the date the report was
10 acknowledged as received by the department.

11 (c) A salvage vehicle dealer utilizing the department's web-based title application known as
12 webDEALER, as defined in §217.71 of this title (relating to Automated and Web-Based Vehicle Registration
13 and Title Systems), must comply with §217.74 of this title (relating to Access to and Use of webDEALER).
14 Original hard copy titles are not required to be kept at the licensed business location [r] but must be made
15 available to the department upon request.

16

17 221.73. Content of Records.

18 (a) The records of a salvage vehicle dealer for purchases and sales shall include:

19 (1) the date the license holder purchased ~~[of purchase of]~~ the salvage motor vehicle, or
20 non-repairable motor vehicle;

1 (2) the name and address of the person who sold the salvage motor vehicle or non-
2 repairable motor vehicle to the salvage vehicle dealer;

3 (3) if the person ~~[who sold the salvage motor vehicle or non-repairable motor vehicle to~~
4 ~~the salvage motor vehicle dealer]~~ is not an insurance company or a license holder ~~[salvage pool operator],~~
5 a photocopy of ~~[one of]~~ the ~~[following current.]~~ photo identification document ~~[documents]~~ of the person
6 who purchased the salvage motor vehicle or non-repairable motor vehicle from the salvage vehicle dealer
7 or sold the salvage motor vehicle or non-repairable motor vehicle to the salvage vehicle dealer; [∴]

8 ~~[(A) driver's license, Department of Public Safety identification, or state~~
9 ~~identification certificate issued by a state or territory of the United States;]~~

10 ~~[(B) concealed handgun license or license to carry a handgun issued by the~~
11 ~~Department of Public Safety under Government Code, Chapter 411, Subchapter H;]~~

12 ~~[(C) United States or foreign passport;]~~

13 ~~[(D) United States Department of Homeland Security, United States Citizenship~~
14 ~~and Immigration Services, or United States Department of State Identification document;]~~

15 ~~[(E) United States military identification card; or]~~

16 ~~[(F) North Atlantic Treaty Organization identification or identification issued under~~
17 ~~a Status of Forces Agreement];~~

18 (4) a description of the salvage motor vehicle or non-repairable motor vehicle, including
19 the model, year, make, and vehicle identification number, if applicable;

20 (5) the ownership document number and state of issuance of the salvage motor vehicle
21 or non-repairable motor vehicle ownership document, if applicable;

1 (6) a copy of the salvage record of title or non-repairable record of title, if applicable, or a
2 copy of the front and back of the ownership document for the salvage motor vehicle or non-repairable
3 motor vehicle;

4 (7) a copy of the form if the ownership document has been surrendered to the
5 department; ~~and~~

6 (8) any evidence indicating that the motor vehicle was dismantled, scrapped, or
7 destroyed; [-]

8 (9) the sales contract or buyer's order;

9 (10) the salvage disclosure notice required under §221.51 of this title (relating to Duty to
10 Identify a Motor Vehicle Offered for Sale);

11 (11) a copy of the photo identification document required for export sales under §221.52
12 (relating to Export-Only Sales);

13 (12) records for a casual sale as required under §221.53 (relating to Casual Sales); and

14 (13) any other records required under current rules in this title.

15 (b) If the salvage motor vehicle has been rebuilt, repaired, or reconstructed by the salvage vehicle
16 dealer the salvage vehicle dealer's records must also include a form prescribed by the department ~~for~~
17 ~~"Rebuilt Vehicle Statement," listing all repairs made to the motor vehicle, and, when required to be~~
18 ~~completed, a form prescribed by the department for "Component Part(s) Bill of Sale."]~~in accordance with
19 §217.89 of this title (relating to Rebuilt Salvage Motor Vehicles).

20

21 SUBCHAPTER E. ADMINISTRATIVE PROCEDURES

1 **43 TAC §§221.91–221.96**

2 **STATUTORY AUTHORITY.** The department proposes repeals to Chapter 221 under §2302.051, which
3 authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302;
4 Occupations Code, §2302.108, which authorizes the department to deny, suspend, revoke, or reinstate a
5 license issued under Chapter 2302 consistent with the requirements of Government Code, Chapter 2001;
6 and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and
7 appropriate to implement the powers and the duties of the department.

8 The department also proposes repeals under the authority of Occupations Code, §2301.151, which gives
9 the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to
10 take any action that is necessary or convenient to exercise that authority; Transportation Code,
11 §§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, 2001.054, and 2001.039 in
12 addition to the statutory authority referenced throughout this preamble.

13 Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation
14 Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to
15 administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the department
16 to adopt rules to administer Transportation Code, Chapter 503.

17 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and
18 requirements of all available formal and informal procedures. Government Code, §2001.039 requires
19 state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.

20 Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation,
21 suspension, annulment, or withdrawal of a license.

1 CROSS REFERENCE TO STATUTE. These repeals would implement Government Code, Chapter 2001;
2 Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501–503, 1001–1003,
3 and 1005.

4

5 **Text.**

6 §221.91. Notice of Department Decision.

7 §221.92. Notice of Hearing

8 §221.93. Final Decisions and Orders; Motions for Rehearing

9 §221.94. Judicial Review of Final Order

10 §221.95. Delegation of Final Order Authority

11 §221.96. Cease and Desist Order

12

13 SUBCHAPTER F. ADMINISTRATIVE SANCTIONS

14 **43 TAC §§221.111–221.115**

15 **STATUTORY AUTHORITY.** The department proposes amendments to Chapter 221 under Government
16 Code, §411.122(d), which authorizes department access to criminal history record information
17 maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal
18 history record information from DPS and the FBI for license applicants, license holders, and
19 representatives whose act or omission would be cause for denying, revoking, or suspending a license
20 issued under Occupations Code, Chapter 2302; Occupations Code, §2302.051, which authorizes the board
21 to adopt rules as necessary to administer Occupations Code, Chapter 2302; Occupations Code, §2302.052,
22 which assigns the board a duty to set reasonable and necessary application fees, license fees, renewal
23 fees, and other fees as required to implement Chapter 2302; Occupations Code, §2302.103, which

1 requires a salvage vehicle dealer to apply for a license on a form prescribed by the department and pay
2 an application fee; Occupations Code, §2302.104, which prescribes content that must be included in an
3 application; Occupations Code, §2302.105, which requires the department to complete an investigation
4 of the applicant’s qualifications before issuing a license; Occupations Code, §2302.108, which authorizes
5 the department to deny, suspend, revoke, or reinstate a license issued under Chapter 2302 consistent
6 with the requirements of Government Code, Chapter 2001; and Transportation Code, §1002.001, which
7 authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the
8 duties of the department.

9 The department also proposes amendments and under the authority of Occupations Code, §2301.151,
10 which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the
11 authority to take any action that is necessary or convenient to exercise that authority; Transportation
12 Code, §§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, and 2001.039, and
13 2001.054, in addition to the statutory authority referenced throughout this preamble.

14 Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation
15 Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to
16 administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the department
17 to adopt rules to administer Transportation Code, Chapter 503.

18 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and
19 requirements of all available formal and informal procedures. Government Code, §2001.039 requires
20 state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.
21 Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation,
22 suspension, annulment, or withdrawal of a license.

1 CROSS REFERENCE TO STATUTE. These rule revisions would implement Government Code, Chapters 411
2 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501–503,
3 1001–1003, and 1005.

4

5 **Text.**

6 221.111. Denial of License.

7 (a) The ~~board or~~ department may deny an application for a new license or an application
8 for a license renewal ~~[of a license]~~ under Occupations Code Chapter 53 or Chapter 2302, and §211.3
9 of this title (relating to Criminal Offense Guidelines) or this chapter, if:

10 (1) all the information required on the application is not complete;

11 (2) the applicant or any owner, officer, director, or other person described in §211.2
12 of this title (relating to Application of Subchapter) made a false statement, material
13 misrepresentation, or a material omission, on the application to issue, renew, or amend a license;

14 (3) the applicant, or any owner, officer, director, or other person described in §211.2
15 of this title, has been convicted, or considered convicted under Occupations Code §53.021(d), by
16 any local, state, federal, or foreign authority, of an offense that directly relates to the duties or
17 responsibilities of the licensed occupation as described in §211.3 of this title or is convicted of an
18 offense that is independently disqualifying under Occupations Code §53.021;

19 (4) the applicant's or any owner's, officer's, director's, or other person described in
20 §211.2 of this title, previous license was revoked;

21 (5) the applicant ~~[or license holder]~~ has an ownership, organizational, managerial,
22 or other business arrangement that would allow a person the power to direct, management,
23 policies, or activities, of the applicant or license holder, whether directly or indirectly, who ~~is~~

1 ~~unfit, ineligible for license, or~~ has been subject to disciplinary action, including suspension,
2 revocation, denial, corrective action, cease and desist order, or assessment of a civil penalty,
3 administrative fine, or similar assessment for a current or previous license, permit, or other
4 authorization issued by any local, state, or federal regulatory authority; or

5 (6) the applicant, or any owner, officer, or director, or other person described in
6 §211.2 of this title [~~is unfit to hold the license, is ineligible for licensure, or~~] whose current or
7 previous license, permit, or other authorization issued by any local, state, or federal regulatory
8 authority has been subject to disciplinary action, including suspension, revocation, denial,
9 corrective action, cease and desist order, or assessment of a civil penalty, administrative fine, fee,
10 or similar assessment.

11 (b) If the department denies an application for a license to be issued under the authority of
12 Occupations Code Chapter 2302, the applicant may request an administrative hearing in the manner
13 specified in §224.54 [~~§221.91~~] of this title (relating to Notice of Department Decision).

14 (c) In accordance with Occupations Code §2302.108, the [~~board or~~] department shall reject
15 any application for issuance of a new license under Occupations Code Chapter 2302 filed by a person
16 whose license is revoked before the first anniversary of the date of revocation.

17

18 221.112. Suspension, Revocation and Administrative Penalties.

19 The [~~board or~~] department may suspend or revoke a license or impose an administrative penalty
20 if the license holder:

21 (1) fails to meet or maintain the qualifications and requirements for a license;

1 (2) violates any law relating to the purchase, sale, exchange, storage, or distribution of
2 motor vehicles, including salvage motor vehicles and nonrepairable motor vehicles;

3 (3) willfully defrauds a purchaser;

4 (4) fails to maintain purchase, sales, and inventory records as required by Occupations
5 Code, Chapter 2302, Transportation Code, Chapter 501, Chapter 217, Subchapter D of this title, or this
6 chapter;

7 (5) refuses~~[to permit]~~ or fails to comply with a request by the department to examine,
8 during normal business hours, the license holder's records as required by Occupations Code, Chapter
9 2302, or this chapter;

10 (6) engages in motor vehicle or salvage business without the required license;

11 (7) engages in business as a salvage vehicle dealer at a location for which a license has not
12 been issued by the department;

13 (8) fails to notify the department of a change of the salvage vehicle dealer's license holder
14 information as required under §221.19 of this title (relating to Notice of Change in License Holder
15 Information) [~~legal business entity name, assumed name, mailing address, or email address within 30~~
16 ~~days of such change by submitting an amendment to the license;~~

17 (9) fails to notify the department of a change in location prior to operating in a new
18 location or closing a location in accordance with §221.18 of this title (relating to Additional, New, or
19 Closed Location) [~~described in §221.19(b) of this title (relating to Change of License Holder's Name,
20 Ownership, or Control)~~ as required in that section];

1 (10) fails to remain regularly and actively engaged in the business for which the salvage
2 vehicle dealer license is issued;

3 (11) sells more than five (5) nonrepairable motor vehicles or salvage motor vehicles to the
4 same person in a casual sale during a calendar year;

5 (12) violates any provision of Occupations Code Chapters 2301 or 2302, Transportation
6 Code Chapters 501, 502, or 503, or any board rule or order promulgated under those statutes;

7 (13) uses or allows use of the salvage vehicle dealer's license or business location for the
8 purpose of avoiding the requirements of Occupations Code Chapters 2301 or 2302, Transportation Code,
9 Chapters 501, 502 or 503, or any board rule or order promulgated under those statutes;

10 14) violates any law, ordinance, rule or regulation governing the purchase, sale, exchange,
11 or storage, of salvage motor vehicles or nonrepairable motor vehicles;

12 (15) sells or offers for sale a nonrepairable motor vehicle or a salvage motor vehicle from
13 any location other than the salvage vehicle dealer's licensed business location;

14 (16) is, or any owner, officer, director, or other person described in §211.2 of this title
15 (relating to Application of Subchapter), is convicted, or considered convicted under Occupations Code
16 §53.021(d), by any local, state, federal, or foreign authority, of an offense that directly relates to the duties
17 or responsibilities of the licensed occupation as described in §211.3 of this title (relating to Criminal
18 Offense Guidelines) or an offense that that is independently disqualifying under Occupations Code
19 §53.021 after initial issuance or renewal of the salvage vehicle dealer license, or that has not been
20 reported to the department as required;

1 (17) makes a false statement, material misrepresentation, or material omission in any
2 application or other information filed with the department;

3 (18) fails to timely remit payment for administrative penalties imposed by the
4 department;

5 (19) engages in business without a license required under Occupations Code Chapters
6 2301 or 2302, or Transportation Code Chapter 503;

7 (20) operates a salvage motor vehicle or a nonrepairable motor vehicle on ~~the~~ public
8 highways or allows another person to operate a salvage motor vehicle or a nonrepairable motor vehicle
9 on public highways; or

10 ~~[(21) dismantles a salvage motor vehicle or a nonrepairable motor vehicle]~~

11 (21) ~~[(22)]~~ deals in used automotive parts as more than an incidental part of the salvage
12 vehicle dealer's primary business.

13

14 221.115. Refund of Fees.

15 In the absence of director approval, the department will not refund a fee paid by a license
16 applicant or a license holder if:

17 (1) the application or license is withdrawn, denied, suspended, or revoked; or

18 (2) the license applicant or license holder is subject to an unpaid civil penalty imposed
19 against the license applicant or license holder by a final order. ~~[The department will not refund fees paid~~
20 ~~if a license is denied, suspended or revoked.]~~

1

2 **CERTIFICATION.** The agency certifies that legal counsel has reviewed the proposal and found it to be
3 within the state agency’s legal authority to adopt.

4 Filed with the Office of the Secretary of State on December 15, 2023.

5

/s/ Laura Moriaty
Laura Moriaty, General Counsel

6

7