

1 Introduction Process), amended Section 1515 (Ballot Process), and amended Section 1520 (Effective Date
2 of Plan Amendments).

3 A proposed amendment to §217.56(c)(2)(J) would replace the current catch line for subparagraph
4 (J) to provide a better description of the contents of subparagraph (J). A proposed amendment to
5 §217.56(c)(2)(J)(ii) would change the word “ruling” to “decision” to be consistent with other department
6 rules. Proposed amendments to §217.56(c)(2)(J)(iii) would reference proposed new §224.122 of this title
7 (relating to Appeal of Decision Regarding Assessment, Cancellation, or Revocation Under §217.56), which
8 would prescribe the requirements for a vehicle registrant that wants to appeal a decision against the
9 registrant under subparagraph (J) of an assessment (a financial penalty under §217.56(c)(2)(G)) or a
10 cancellation or revocation of the registrant’s apportioned registration under IRP. Proposed amendments
11 to §217.56(c)(2)(J)(iii) would also add a citation to Transportation Code, Chapter 502 and proposed new
12 Chapter 224 of this title (relating to Adjudicative Practice and Procedure), which would govern an appeal
13 under subparagraph (J). In addition, proposed amendments would delete language regarding the
14 procedure for an appeal under current subparagraph (J), including the procedures under Chapter 206,
15 Subchapter D of this title (relating to Procedures in Contested Cases). In this issue of the *Texas Register*,
16 the department is proposing amendments that would repeal Subchapter D of Chapter 206 and replace it
17 with provisions in proposed new Chapter 224.

18 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer,
19 has determined that for each year of the first five years the amendments will be in effect, there will be no
20 significant fiscal impact to state or local governments as a result of the enforcement or administration of
21 the proposal. Jimmy Archer, Director of the Motor Carrier Division (MCD), has determined that there will
22 be no significant impact on local employment or the local economy as a result of the proposal.

1 **PUBLIC BENEFIT AND COST NOTE.** Mr. Archer has also determined that, for each year of the first five
2 years the amended section is in effect, there are two anticipated public benefits regarding the
3 amendments.

4 Anticipated Public Benefits. One public benefit anticipated as a result of the proposal is an
5 updated rule that references the current edition of IRP. IRP governs the department's issuance of
6 apportioned registration under IRP, so the public might need to know the current edition of IRP to review
7 the provisions in IRP. Another public benefit is the deletion of language regarding the procedure for an
8 appeal under current §217.56(c)(2)(J). The department's proposed new Chapter 224 would contain
9 language regarding the adjudicative practice and procedure for all of the department's contested cases,
10 including an appeal under §217.56(c)(2)(J). Chapter 224 would provide more information for a registrant
11 who wants to file an appeal under §217.56(c)(2)(J), in addition to providing more clarity and consistency
12 regarding the department's adjudicative practice and procedure for all contested cases.

13 Anticipated Costs To Comply With The Proposal. Mr. Archer anticipates that there will be no costs
14 to comply with these amendments.

15 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government
16 Code, §2006.002, the department has determined that the proposed amendments will not have an
17 adverse economic effect on small businesses, micro-businesses, and rural communities because the
18 amendments to the January 1, 2022, edition of IRP do not directly impact registrants under IRP.

19 Also, the amendments regarding an appeal under §217.56(c)(2)(J) only apply if the registrant
20 chooses to appeal an assessment or a proposed cancellation or revocation of the registrant's apportioned
21 registration under IRP. In addition, the proposed amendments would not change the fact that the
22 contested case procedures and requirements are primarily governed by Government Code, Chapter 2001
23 and 1 TAC Chapter 155, which are the rules of procedure for the State Office of Administrative Hearings

1 (SOAH). Therefore, the department is not required to prepare a regulatory flexibility analysis under
2 Government Code, §2006.002.

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

7 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the
8 first five years the proposed amendments are in effect, no government program would be created or
9 eliminated. Implementation of the proposed amendments would not require the creation of new
10 employee positions or elimination of existing employee positions. Implementation would not require an
11 increase or decrease in future legislative appropriations to the department or an increase or decrease of
12 fees paid to the department. The proposed amendments do not create a new regulation; however, they
13 technically enable the expansion of an existing regulation regarding the department's adjudicative
14 practice and procedure. The proposed amendments to §217.56(c)(2)(J) enable the department's
15 proposed new Chapter 224 to govern the adjudicative practice and procedure under §217.56(c)(2)(J),
16 which results in more detailed requirements and clarity. Lastly, the proposed amendments do not affect
17 the number of individuals subject to the rule's applicability and will not affect this state's economy.

18 **REQUEST FOR PUBLIC COMMENT.**

19 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on
20 January 28, 2024. A request for a public hearing must be sent separately from your written comments.
21 Send written comments or hearing requests by email to rules@txdmv.gov or by mail to Office of General
22 Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is
23 held, the department will consider written comments and public testimony presented at the hearing.

1 **STATUTORY AUTHORITY.**

2 The department proposes amendments to §217.56 under Transportation Code, §§502.091(b),
3 502.0021, and 1002.001; and Government Code, §2001.004 and §2001.054, in addition to the statutory
4 authority referenced throughout this preamble.

5 Transportation Code, §502.091(b) authorizes the department to adopt and enforce rules to carry
6 out IRP. Transportation Code, §502.0021 authorizes the department to adopt rules to administer
7 Transportation Code, Chapter 502. Transportation Code, §1002.001 authorizes the board to adopt rules
8 that are necessary and appropriate to implement the powers and duties of the department.

9 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature
10 and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies
11 the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal
12 of a license.

13 **CROSS REFERENCE TO STATUTE.** These proposed revisions would implement Transportation Code,
14 Chapter 502, and Government Code, Chapter 2001.

15

16 **TEXT.**

17 **SUBCHAPTER B. MOTOR VEHICLE REGISTRATION**

18 §217.56. Registration Reciprocity Agreements.

19 (a) Purpose. To promote and encourage the fullest possible use of the highway system and
20 contribute to the economic development and growth of the State of Texas and its residents, the
21 department is authorized by Transportation Code, §502.091 to enter into agreements with duly
22 authorized officials of other jurisdictions, including any state of the United States, the District of
23 Columbia, a foreign country, a state or province of a foreign country, or a territory or possession of

1 either the United States or of a foreign country, and to provide for the registration of vehicles by Texas
2 residents and nonresidents on an allocation or distance apportionment basis, and to grant exemptions
3 from the payment of registration fees by nonresidents if the grants are reciprocal to Texas residents.

4 (b) Definitions. The following words and terms, when used in this section, shall have the
5 following meanings, unless the context clearly indicates otherwise:

6 (1) Cab card--The apportioned vehicle registration receipt that contains, but is not
7 limited to, the vehicle description and the registered weight at which the vehicle may operate in each
8 jurisdiction.

9 (2) Department--The Texas Department of Motor Vehicles.

10 (3) Director--The director of the Motor Carrier Division, Texas Department of Motor
11 Vehicles.

12 (4) Executive director--The chief executive officer of the department.

13 (5) Regional Service Center--A department office which provides specific services to the
14 public, including replacement titles, bonded title rejection letters, and apportioned registration under
15 the International Registration Plan (IRP).

16 (6) Temporary cab card--A temporary registration permit authorized by the department
17 that allows the operation of a vehicle for 30 days subject to all rights and privileges afforded to a vehicle
18 displaying apportioned registration.

19 (c) Multilateral agreements.

20 (1) Authority. The executive director may on behalf of the department enter into a
21 multilateral agreement with the duly authorized officials of two or more other jurisdictions to carry out
22 the purpose of this section.

23 (2) International Registration Plan.

1 (A) Applicability. The IRP is a registration reciprocity agreement among states of
2 the United States and other jurisdictions providing for payment of registration fees on the basis of fleet
3 distance operated in various jurisdictions. Its purpose is to promote and encourage the fullest possible
4 use of the highway system by authorizing apportioned registration for commercial motor vehicles and
5 payment of appropriate vehicle registration fees and thus contributing to the economic development
6 and growth of the member jurisdictions.

7 (B) Adoption. The department adopts by reference the January 1, 2022, [~~2021~~]
8 edition of the IRP. The department also adopts by reference the January 1, 2016, edition of the IRP Audit
9 Procedures Manual. In the event of a conflict between this section and the IRP or the IRP Audit
10 Procedures Manual, the IRP and the IRP Audit Procedures Manual control. Copies of the documents are
11 available for review in the Motor Carrier Division, Texas Department of Motor Vehicles. Copies are also
12 available on request.

13 (C) Application.

14 (i) An applicant must submit an application to the department on a form
15 prescribed by the director, along with additional documentation as required by the director. An
16 applicant shall provide the department with a copy of the applicant's receipt under the Unified Carrier
17 Registration System Plan and Agreement under 49 U.S.C. §14504a (UCR) to prove the applicant is
18 currently registered under UCR if the applicant is required to register under UCR.

19 (ii) Upon approval of the application, the department will compute the
20 appropriate registration fees and notify the registrant.

21 (D) Fees. Upon receipt of the applicable fees in the form as provided by §209.23
22 of this title (relating to Methods of Payment), the department will issue one or two license plates and a
23 cab card for each vehicle registered.

1 (E) Display of License Plates and Cab Cards.

2 (i) The department will issue one license plate for a tractor, truck-
3 tractor, trailer, and semitrailer. The license plate issued to a tractor or a truck-tractor shall be installed
4 on the front of the tractor or truck-tractor, and the license plate issued for a trailer or semitrailer shall
5 be installed on the rear of the trailer or semitrailer.

6 (ii) The department will issue two license plates for all other vehicles
7 that are eligible to receive license plates under the IRP. Once the department issues two license plates
8 for a vehicle listed in this clause, one plate shall be installed on the front of the vehicle, and one plate
9 shall be installed on the rear of the vehicle.

10 (iii) The cab card shall be carried at all times in the vehicle in accordance
11 with the IRP. If the registrant chooses to display an electronic image of the cab card on a wireless
12 communication device or other electronic device, such display does not constitute consent for a peace
13 officer, or any other person, to access the contents of the device other than the electronic image of the
14 cab card.

15 (iv) The authority to display an electronic image of the cab card on a
16 wireless communication device or other electronic device does not prevent the Texas State Office of
17 Administrative Hearings or a court of competent jurisdiction from requiring the registrant to provide a
18 paper copy of the cab card in connection with a hearing, trial, or discovery proceeding.

19 (F) Audit. An audit of the registrant's vehicle operational records may be
20 conducted by the department according to the IRP provisions and the IRP Audit Procedures Manual.
21 Upon request, the registrant shall provide the operational records of each vehicle for audit in unit
22 number order, in sequence by date, and including, but not limited to, a summary of distance traveled by

1 each individual vehicle on a monthly, quarterly, and annual basis with distance totaled separately for
2 each jurisdiction in which the vehicle traveled.

3 (G) Assessment. The department may assess additional registration fees of up to
4 100% of the apportionable fees paid by the registrant for the registration of its fleet in the registration
5 year to which the records pertain, as authorized by the IRP, if an audit conducted under subparagraph
6 (F) of this paragraph reveals that:

7 (i) the operational records indicate that the vehicle did not generate
8 interstate distance in two or more member jurisdictions for the distance reporting period supporting the
9 application being audited, plus the six-month period immediately following that distance reporting
10 period;

11 (ii) the registrant failed to provide complete operational records; or

12 (iii) the distance must be adjusted, and the adjustment results in a
13 shortage of registration fees due Texas or any other IRP jurisdiction.

14 (H) Refunds. If an audit conducted under subparagraph (F) of this paragraph
15 reveals an overpayment of fees to Texas or any other IRP jurisdiction, the department will refund the
16 overpayment of registration fees in accordance with Transportation Code, §502.195 and the IRP. Any
17 registration fees refunded to a carrier for another jurisdiction will be deducted from registration fees
18 collected and transmitted to that jurisdiction.

19 (I) Cancellation or revocation. The director or the director's designee may cancel
20 or revoke a registrant's apportioned registration and all privileges provided by the IRP as authorized by
21 the following:

22 (i) the IRP; or

23 (ii) Transportation Code, Chapter 502.

1 (J) Procedures for assessment, cancellation, or revocation. [~~Enforcement of~~
2 ~~cancelled or revoked registration.~~]

3 (i) Notice. If a registrant is assessed additional registration fees, as
4 provided in subparagraph (G) of this paragraph, and the additional fees are not paid by the due date
5 provided in the notice or it is determined that a registrant's apportioned license plates and privileges
6 should be canceled or revoked, as provided in subparagraph (I) of this paragraph, the director or the
7 director's designee will mail a notice by certified mail to the last known address of the registrant. The
8 notice will state the facts underlying the assessment, cancellation, or revocation; the effective date of
9 the assessment, cancellation, or revocation; and the right of the registrant to request a conference as
10 provided in clause (ii) of this subparagraph.

11 (ii) Conference. A registrant may request a conference upon receipt of a
12 notice issued as provided by clause (i) of this subparagraph. The request must be made in writing to the
13 director or the director's designee within 30 days of the date of the notice. If timely requested, the
14 conference will be scheduled and conducted by the director or the director's designee at division
15 headquarters in Austin and will serve to abate the assessment, cancellation, or revocation unless and
16 until that assessment, cancellation, or revocation is affirmed or disaffirmed by the director or the
17 director's designee. In the event matters are resolved in the registrant's favor, the director or the
18 director's designee will mail the registrant a notice of withdrawal, notifying the registrant that the
19 assessment, cancellation, or revocation is withdrawn, and stating the basis for that action. In the event
20 matters are not resolved in the registrant's favor, the director or the director's designee will issue a
21 decision [~~ruling~~] reaffirming the department's assessment of additional registration fees or cancellation
22 or revocation of apportioned license plates and privileges. The registrant has the right to appeal in
23 accordance with clause (iii) of this subparagraph.

1 (iii) Appeal. If a conference held in accordance with clause (ii) of this
2 subparagraph fails to resolve matters in the registrant's favor, the registrant may submit an appeal
3 under §224.122 of this title (relating to Appeal of Decision Regarding Assessment, Cancellation, or
4 Revocation Under §217.56). An appeal will be governed by Transportation Code, Chapter 502 and
5 Chapter 224 of this title (relating to Adjudicative Practice and Procedure). [~~request an administrative~~
6 ~~hearing.~~]
7 [~~The request must be in writing and must be received by the director no later than the 20th day~~
8 ~~following the date of the ruling issued under clause (ii) of this subparagraph. If requested within the~~
9 ~~designated period, the hearing will be initiated by the department and will be conducted in accordance~~
10 ~~with Chapter 206, Subchapter D of this title (relating to Procedures in Contested Cases). Assessment,~~
11 ~~cancellation, or revocation is abated unless and until affirmed or disaffirmed by order of the Board of~~
12 ~~the Texas Department of Motor Vehicles or its designee.]~~

13 (K) Reinstatement.

14 (i) The director or the director's designee will reinstate apportioned
15 registration to a previously canceled or revoked registrant if all applicable fees and assessments due on
16 the previously canceled or revoked apportioned account have been paid and the applicant provides
17 proof of an acceptable recordkeeping system for a period of no less than 60 days.

18 (ii) The application for the following registration year will be processed
19 in accordance with the provisions of the IRP.

20 (L) Denial of apportioned registration for safety reasons. The department will
21 comply with the requirements of the Performance and Registration Information Systems Management
22 program (PRISM) administered by the Federal Motor Carrier Safety Administration (FMCSA).

1 (i) Denial or suspension of apportioned registration. Upon notification
2 from the FMCSA that a carrier has been placed out of service for safety violations, the department will:

3 (I) deny initial issuance of apportioned registration;

4 (II) deny authorization for a temporary cab card, as provided for
5 in subparagraph (M) of this paragraph;

6 (III) deny renewal of apportioned registration; or

7 (IV) suspend current apportioned registration.

8 (ii) Issuance after denial of registration or reinstatement of suspended
9 registration. The director or the director's designee will reinstate or accept an initial or renewal
10 application for apportioned registration from a registrant who was suspended or denied registration
11 under clause (i) of this subparagraph upon presentation of a Certificate of Compliance from FMCSA, in
12 addition to all other required documentation and payment of fees.

13 (M) Temporary cab card.

14 (i) Application. The department may authorize issuance of a temporary
15 cab card to a motor carrier with an established Texas apportioned account for a vehicle upon proper
16 submission of all required documentation, a completed application, and all fees for either:

17 (I) Texas title as prescribed by Transportation Code, Chapter 501
18 and Subchapter A of this chapter (relating to Motor Vehicle Titles); or

19 (II) registration receipt to evidence title for registration
20 purposes only (Registration Purposes Only) as provided for in Transportation Code, §501.029 and
21 §217.24 of this title (relating to Vehicle Last Registered in Another Jurisdiction).

22 (ii) Title application. A registrant who is applying for a Texas title as
23 provided for in clause (i)(I) of this subparagraph and is requesting authorization for a temporary cab

1 card, must submit to a Regional Service Center a photocopy of the title application receipt issued by the
2 county tax assessor-collector's office.

3 (iii) Registration Purposes Only. A registrant who is applying for
4 Registration Purposes Only under clause (i)(II) of this subparagraph and is requesting authorization for a
5 temporary cab card, must submit an application and all additional original documents or copies of
6 original documents required by the director to a Regional Service Center.

7 (iv) Department approval. On department approval of the submitted
8 documents, the department will send notice to the registrant to finalize the transaction and make
9 payment of applicable registration fees.

10 (v) Finalization and payment of fees. To finalize the transaction and
11 print the temporary cab card, the registrant may compute the registration fees through the
12 department's apportioned registration software application, TxIRP system, and:

13 (I) make payment of the applicable registration fees to the
14 department as provided by §209.23 of this title; and

15 (II) afterwards, mail or deliver payment of the title application
16 fee in the form of a check, certified cashier's check, or money order payable to the county tax assessor-
17 collector in the registrant's county of residency and originals of all copied documents previously
18 submitted.

19 (vi) Deadline. The original documents and payment must be received by
20 the Regional Service Center within 72-hours after the time that the office notified the registrant of the
21 approval to print a temporary cab card as provided in clause (iv) of this subparagraph.

22 (vii) Failure to meet deadline. If the registrant fails to submit the original
23 documents and required payment within the time prescribed by clause (vi) of this subparagraph, the

1 registrant's privilege to use this expedited process to obtain a temporary cab card will be denied by the
2 department for a period of six months from the date of approval to print the temporary cab card.

3

4 **CERTIFICATION.** The agency certifies that legal counsel has reviewed the proposal and found it to be
5 within the state agency's legal authority to adopt.

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

7

8

9

10

/s/ Laura Moriaty
Laura Moriaty, General Counsel