

1	ADOPTION OF REVISIONS TO
2	SUBCHAPTER A. ORGANIZATION AND RESPONSIBILITIES
3	43 TAC §206.1 AND §206.2
4	SUBCHAPTER B. PUBLIC MEETINGS AND HEARINGS
5	43 TAC §206.22 AND §206.23
6	SUBCHAPTER C. PROCEDURE FOR PETITION TO ADOPT RULES
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10	SUBCHAPTER F. DEPARTMENT VEHICLE FLEET MANAGEMENT
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15	43 TAC §206.151
16	REPEAL OF
17	SUBCHAPTER D. PROCEDURES IN CONTESTED CASES

18 **INTRODUCTION.** The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas
19 Administrative Code (TAC) Chapter 206, Subchapter A, Organization and Responsibilities, §206.1 and
20 §206.2; Subchapter B, Public Meetings and Hearings, §206.22 and §206.23; Subchapter C, Procedure for
21 Petition to Adopt Rules, §206.41; Subchapter E, Advisory Committees, §206.92 and §206.93; Subchapter
22 F, Department Vehicle Fleet Management, §206.111; Subchapter G, Electronic Signatures, §206.131; and
23 Subchapter H, Risk-Based Monitoring and Preventing Fraudulent Activity, §206.151. In conjunction with
24 these amendments, the department adopts the repeal of Subchapter D, Procedures in Contested Cases.
25 In addition, the department adopts new §206.101 in Subchapter E.

26 The department adopts amendments to §§206.1, 206.41, and 206.111 without changes to the
27 proposed text as published in the December 29, 2023, issue of the *Texas Register* (48 TexReg 8192) and
28 will not be republished. The department adopts §§206.2, 206.22, 206.23, 206.92, 206.93, 206.101,
29 206.131 and 206.151 with changes to the proposed text as published in the December 29, 2023, issue of
30 the *Texas Register* (48 TexReg 8192) and will be republished. In response to comments made by the Texas
31 Independent Automobile Dealers Association (TIADA), the department made a nonsubstantive
32 amendment to §206.2(a)(2)(C) to delete the word “and” at the end of the clause, and the department
33 made a substantive amendment to §206.22(a)(1) to clarify that a person speaking before the board on an
34 agenda item will be allowed an opportunity to speak prior to any motion by the board on the agenda item.
35 The remainder of the changes made at adoption are described in the following paragraphs of this
36 preamble.

37 **REASONED JUSTIFICATION.**

38 Subchapter A. Organization and Responsibilities

39 The adopted amendments to Subchapter A clarify the authority of the executive director and
40 delete rule text that is redundant with statute. The adopted amendments to §206.1 cite the statutory
41 provision from which the executive director receives authority to delegate certain functions to staff within
42 the department and clarify that such delegation must be consistent with applicable law.

43 The adopted amendments to §206.2(a) clarify that the executive director hires and oversees the
44 department's general counsel, and align the rule text with Transportation Code, §1001.041 and
45 §1001.0411. In response to a comment from TIADA, the department adopts §206.2(a)(2)(C) with a change
46 at adoption to remove the misplaced "and" after the semicolon at the end of the clause. The adopted
47 amendment to §206.2(a)(3) removes unnecessary limitations on the executive director's powers to
48 delegate to staff. The adopted amendment to §206.2(b) removes an unnecessary and redundant citation
49 to the title of Government Code, Chapter 551. The adopted amendments strike §206.2(c) because it is
50 duplicative of Transportation Code, §1001.004.

51 Subchapter B. Public Meetings and Hearings

52 In response to a comment from TIADA, the department adopts §206.22(a)(1) with a change at
53 adoption to substitute the word "motion" for the word "vote" to require the board to take public comment
54 on an agenda item before entertaining a motion on that agenda item. This change will give the board
55 members the benefit of any public comments on an agenda item, which may impact the board members'
56 decisions regarding a proposed motion. Adopted amendments to §206.22 delete subsection (f) and
57 remove a cross-reference to it because its provisions on contested cases are combined with the
58 department's other rules on contested cases in new Chapter 224, Adjudicative Practice and Procedure,
59 which is adopted in this issue of the *Texas Register*. Adopted amendments to §206.22(b) and (c) simplify
60 and clarify the language, revise existing terminology for consistency with other department rules, and
61 revise the rule text for consistency with current practice. Adopted amendments to §206.22(b)(3) and (d)

62 clarify that public comments, rather than full presentations by the public, are allowed at board meetings.
63 The department adopts §206.22(c) with changes at adoption to clarify that a person who has special
64 communication or accommodation needs and who plans to attend a board meeting may contact the
65 department's contact listed in the posted meeting agenda for the purpose of requests for auxiliary aids or
66 services. At adoption, the department also deleted reference to contacting the department in Austin
67 because the language was vague.

68 The department adopts amendments to §206.23(b) to clarify and streamline the language
69 without changing its meaning. An adopted amendment to §206.23(c)(1) allows the executive director to
70 designate another person to ask questions of speakers at a public hearing, to allow the executive director
71 flexibility to delegate. The adopted amendments to §206.23(c)(4) clarify that the executive director or his
72 designee may represent the department in a public hearing, as well as the board chair or presiding officer.
73 Amendments to §206.23(d) are necessary to remove the term "with disabilities" and to clarify that anyone
74 with special communication or accommodation needs who plans to attend public hearings under this
75 section may contact the department to request auxiliary aids or services. The department adopts
76 §206.23(d) with changes at adoption to clarify that a person who has special communication or
77 accommodation needs and who plans to attend a public hearing under this section may contact the
78 department's contact listed in the public hearing notice for the purpose of requests for auxiliary aids or
79 services, regardless of whether the public hearing will be conducted by the board, the executive director,
80 or the executive director's designee. There is no need to have a different process for a person to request
81 auxiliary aids or services for a public hearing, depending on whether the public hearing will be conducted
82 by the board or the executive director or designee. At adoption, the department also deleted reference to
83 contacting the department in Austin because the language was vague.

84 Subchapter C. Procedure for Petition to Adopt Rules

85 The adopted amendments to Subchapter C, §206.41 streamline and clarify the procedure for
86 submitting to the department a petition to adopt rules under Texas Government Code, §2001.021, clarify
87 the required content of a petition, and remove unnecessary language.

88 Subchapter D. Procedures in Contested Cases

89 The department adopts the repeal of Subchapter D, Procedures in Contested Cases, to consolidate
90 all of the department's contested case rules into new Chapter 224, Adjudicative Practice and Procedure,
91 which the department adopts in this issue of the *Texas Register*. Adopted amendments also reletter the
92 remaining subchapters in Chapter 206.

93 Subchapter E. Advisory Committees

94 An adopted amendment reletters Subchapter E to Subchapter D because the department adopts
95 the repeal of current Subchapter D and reletters the subsequent subchapters accordingly.

96 An adopted amendment to §206.92 deletes the definition of "division director" because the term
97 is not used elsewhere in the subchapter. An adopted amendment to §206.92 also renumbers the
98 paragraphs accordingly due to the deletion of the definition of "division director."

99 The department adopts §206.92(1) with changes at adoption. The department decapitalized the
100 word "committee" in §206.92(1) because the term "advisory committee" isn't capitalized in the
101 subchapter, except when it is used as part of the name of an advisory committee. The department also
102 added the word "to" before the words "the executive director" in §206.92(1).

103 The department adopts §206.93(a) with a change at adoption to indicate that the department is
104 deleting the word "the" before the term "executive director." The department adopts amendments to
105 §206.93(b) and the deletion of §206.93(c) to streamline and clarify the qualifications and appointment

106 requirements for advisory committee members into one subsection. The department adopts §206.93(b)
107 with a change at adoption to replace the reference to subsection (i) with a reference to subsection (h) of
108 this section regarding the reporting of the advisory committee's recommendations to the board. The
109 department also adopts the deletion of §206.93(c) to remove certain language that is redundant with
110 statutory requirements. Adopted amendments to relettered §206.93(f) and (g), remove unnecessary
111 statutory titles. The department adopts the deletion of subsection (i) because new §206.101 addresses
112 public access to advisory committee meetings. The adopted amendments to relettered §206.93(i) clarify
113 that both the executive director and the board shall consider an advisory committee's recommendations
114 in developing policy, and remove an unnecessary reference to an advisory committee's reports. The
115 adopted amendments delete §206.93(m) to remove unnecessary language that is duplicative of Texas
116 Government Code, §2110.008. Adopted amendments reletter the subsections of §206.93 due to deletions
117 of subsections.

118 Adopted new §206.101 clarifies the requirements and parameters for public comment during
119 advisory committee meetings. Adopted new §206.101 closely parallels the requirements for public
120 comments during board meetings in §206.22 (relating to Public Access to Board Meetings). Additionally,
121 adopted new §206.101 allows each public commenter three minutes to comment on any advisory
122 committee agenda item or in an open comment period on any topic within the scope of the specific
123 advisory committee. The department adopts new §206.101(a)(1) with a change at adoption to clarify that
124 a person speaking before the advisory committee on an agenda item will be allowed an opportunity to
125 speak prior to any motion by the advisory committee on the agenda item. This change to new §206.101
126 will give the advisory committee members the benefit of any public comments on an agenda item, which
127 may impact the advisory committee members' decisions regarding a proposed motion. This change to new
128 §206.101(a)(1) makes the language consistent with §206.22(a)(1), which the department amends at

129 adoption in response to a comment from TIADA that requested public comment be allowed prior to a
130 board motion. The department adopts new §206.101(a)(1) with a change at adoption to clarify that a
131 person who has special communication or accommodation needs and who plans to attend an advisory
132 committee meeting may contact the department's contact listed in the posted meeting agenda for the
133 purpose of requests for auxiliary aids or services. This change at adoption is consistent with the changes
134 the department made to §206.22(c) and §206.23(d). Adopted new §206.101(d) sets requirements for
135 conduct and decorum at advisory committee meetings to assist the acting advisory committee chair in
136 maintaining order; these requirements mirror the same requirements for conduct and decorum at board
137 meetings under §206.22(d). Adopted new §206.101(e) allows the acting advisory committee chair
138 flexibility to waive any requirements of §206.101 as necessary to allow the advisory committee or the
139 department to perform their responsibilities. Adopted new §206.101 allows the acting advisory committee
140 chairs to remain responsive to the need for public comment without unnecessarily encumbering the public
141 comment process. Adopted new §206.101 does not allow written public comment for advisory committee
142 meetings to streamline the process, provide a consistent method of receiving comments, and ensure that
143 advisory committee members are able to ask follow-up questions of the commenters.

144 Subchapter F. Department Vehicle Fleet Management

145 An adopted amendment reletters Subchapter F to Subchapter E because the department adopts
146 the repeal of current Subchapter D and reletters the subsequent subchapters accordingly.

147 An adopted amendment to §206.111 clarifies that a written documented finding must be signed
148 by the executive director to support an assignment of a department fleet vehicle to an individual employee
149 on an everyday basis.

150 Subchapter G. Electronic Signatures

151 An adopted amendment reletters Subchapter G to Subchapter F because the department adopts
152 the repeal of current Subchapter D and reletters the subsequent subchapters accordingly. An adopted
153 amendment to §206.131 also renames the title of the subchapter from “Electronic Signatures” to “Digital
154 Certificates” for accuracy and consistency.

155 Adopted amendments to §206.131(d)(2)(A) clarify that a personal identification certificate with a
156 photograph must be unexpired to qualify as an acceptable form of identity verification. An adopted
157 amendment to §206.131(d)(2)(B) deletes a concealed handgun license as an acceptable form of
158 identification because such license is no longer required by law. Adopted amendments to
159 §206.131(d)(2)(E) and (G) correct the name of the federal agency that issues a Form I-94. An adopted
160 amendment to §206.131(g) clarifies that the rule refers to digital certificates. The department adopts
161 §206.131(h)(1) with a change at adoption to add the word “digital” before the word “certificate” for
162 clarity. Adopted amendments to §206.131(i) substitute the word "certificate" for "signature" and reword
163 the second sentence to increase consistency and accuracy.

164 Subchapter H. Risk-Based Monitoring and Preventing Fraudulent Activity

165 An adopted amendment reletters Subchapter H to Subchapter G because the department adopts
166 the repeal of Subchapter D and reletters the subsequent subchapters accordingly.

167 Adopted amendments to §206.151 clarify and specify the department’s internal risk-based
168 monitoring system required by Transportation Code, §520.004(4). The department adopts §206.151(a)
169 with changes at adoption to clarify that it applies to the department’s users of the department’s
170 Registration and Title System (RTS), regardless of whether the department’s users are accessing RTS at the
171 one of the department’s offices or remotely from a non-department location. At adoption, the department

172 moved the phrase "Texas Department of Motor Vehicles (department)" from the middle of the first
173 sentence to the beginning portion of the first sentence after the word "All."

174 The adopted amendments to §206.151 will subject internal users of the department's RTS to
175 periodic examination to determine whether to classify the user as priority or nonpriority. The adopted
176 amendments to §206.151 are necessary to allow the department to prioritize those examinations based
177 on each user's assigned classification of priority or non-priority. Adopted amendments to §206.151 set
178 out the factors the department considers in classifying an internal RTS user as a priority or non-priority
179 user. Additionally, the adopted amendments set minimum goals for frequency of inspections to create
180 more predictability for RTS users, providing that RTS users who are classified as a priority will be inspected
181 not less than twice per year, and that RTS users classified as a non-priority will be inspected not less than
182 once per year. The adopted amendments further provide that the inspections may be virtual, on premises
183 at the RTS user's location, or a combination of both, to give the department flexibility to conserve
184 resources when possible.

185 Additional nonsubstantive amendments are adopted throughout Chapter 206 to correct
186 punctuation, grammar, and capitalization; and to renumber or reletter as necessary.

187 **SUMMARY OF COMMENTS.**

188 The department received comments from TIADA.

189 **Comment:** TIADA recommended the deletion of the word "and" at the end of §206.2(a)(2)(C).

190 **Response:** The department agrees. The department adopts a change to the proposed text at adoption to
191 remove the word "and" at the end of §206.2(a)(2)(C).

192 **Comment:** TIADA recommends that the department modify §206.22(a)(1) to ensure that public comment
193 is allowed prior to board members making motions on an agenda item.

194 **Response:** The department agrees. The department adopts a change to the proposed text at adoption to
195 replace the word “vote” with “motion” in §206.22(a)(1).

196

197 **SUBCHAPTER A. ORGANIZATION AND RESPONSIBILITIES**

198 **43 TAC §206.1 AND §206.2**

199 **STATUTORY AUTHORITY.**

200 The department adopts amendments to Chapter 206 under Transportation Code, §1001.041,
201 which requires the executive director to appoint deputies, assistants and other personnel, including a
202 general counsel; Transportation Code, §1001.0411(b), which allows the executive director to delegate
203 duties or responsibilities; Transportation Code, §1001.0411(c), which requires the executive director to
204 hire and oversee a general counsel to advise the department; Transportation Code, §1002.001, which
205 provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are
206 necessary and appropriate to implement the powers and the duties of the department; Government Code,
207 §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements
208 of all available formal and informal procedures; and the statutory authority referenced throughout this
209 preamble and in the rule text, which is incorporated by reference.

210 **CROSS REFERENCE TO STATUTE.** The adopted amendments implement Government Code, §2001.004;
211 and Transportation Code, Chapters 1001 and 1002.

212

213 Text.

214 §206.1. Delegation.

215 The Board of the Texas Department of Motor Vehicles (board) may, consistent with applicable law,
216 delegate any agency function to the executive director. The executive director may, consistent with
217 applicable law, delegate duties or responsibilities pursuant to Transportation Code, §1001.0411.

218

219 §206.2. Texas Department of Motor Vehicles.

220 (a) Executive director.

221 (1) To assist in discharging the duties and responsibilities of the executive director, the
222 executive director may organize, appoint, and retain administrative staff.

223 (2) The executive director shall:

224 (A) serve the board in an advisory capacity, without vote;

225 (B) submit to the board quarterly, annually, and biennially, detailed reports of the
226 progress of the divisions and a detailed statement of expenditures;

227 (C) hire, promote, assign, reassign, transfer, and, consistent with applicable law
228 and policy, terminate staff necessary to accomplish the roles and missions of the department;

229 (D) hire and oversee a general counsel to advise the department; and

230 (E) perform other responsibilities as required by law or assigned by the board.

231 (3) The executive director may, consistent with applicable law, delegate one or more of
232 the functions listed under paragraph (2) of this subsection to the staff of the department.

233 (b) Department staff. The staff of the department, under the direction of the executive director, is
234 responsible for:

235 (1) implementing the policies and programs of the board by:

236 (A) formulating and applying operating procedures; and

237 (B) prescribing such other operating policies and procedures as may be consistent
238 with and in furtherance of the roles and missions of the department;

239 (2) providing the chair and board members administrative support necessary to perform
240 their respective duties and responsibilities;

241 (3) preparing an agenda under the direction of the chair and providing notice of board
242 meetings and hearings as required by Government Code, Chapter 551; and

243 (4) performing all other duties as prescribed by law or as assigned by the board.

244

245 **SUBCHAPTER B. PUBLIC MEETINGS AND HEARINGS**

246 **43 TAC §206.22 AND §206.23**

247 **STATUTORY AUTHORITY.**

248 The department adopts amendments to Chapter 206 under Transportation Code, §1001.0411(b),
249 which allows the executive director to delegate duties or responsibilities; Transportation Code, §1004.002,
250 which requires the board and the department to develop and implement policies that provide the public
251 with a reasonable opportunity to appear before the board or the department and to speak on any issue
252 under the jurisdiction of the board or the department; Transportation Code, §1002.001, which provides
253 the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary
254 and appropriate to implement the powers and the duties of the department; Government Code,
255 §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements
256 of all available formal and informal procedures; and the statutory authority referenced throughout this
257 preamble and in the rule text, which is incorporated by reference.

258 **CROSS REFERENCE TO STATUTE.** The adopted amendments implement Government Code, §2001.004; and
259 Transportation Code, Chapters 1001, 1002 and 1004.

260

261 Text.

262 §206.22. Public Access to Board Meetings.

263 (a) Posted agenda items. A person may speak before the board on any matter on a posted
264 agenda by submitting a request, in a form and manner as prescribed by the department, prior to the
265 matter being taken up by the board. A person speaking before the board on an agenda item will be
266 allowed an opportunity to speak:

267 (1) prior to a motion by the board on the item; and

268 (2) for a maximum of three minutes, except as provided in subsections (d)(6) and (e) of
269 this section.

270 (b) Open comment period.

271 (1) At each regular board meeting, the board shall allow an open comment period to
272 receive public comment on any other matter that is under the jurisdiction of the board.

273 (2) A person wanting to speak to the board under this subsection shall complete a
274 registration form, as provided by the department, prior to the beginning of the open comment period.

275 (3) Except as provided in subsections (d)(6) and (e) of this section, each person shall be
276 allowed to speak for a maximum of three minutes in the order in which requests to speak were
277 received.

278 (c) Disability accommodation. Persons who have special communication or accommodation
279 needs and who plan to attend a meeting, may contact the department's contact listed in the posted
280 meeting agenda for the purpose of requests for auxiliary aids or services. Requests shall be made at
281 least two days before a meeting. The department shall make every reasonable effort to accommodate
282 these needs.

283 (d) Conduct and decorum. The board shall receive public input as authorized by this section,
284 subject to the following guidelines.

285 (1) Questioning of speakers shall be reserved to board members and the department's
286 administrative staff.

287 (2) Organizations, associations, or groups are encouraged to present their commonly
288 held views, and same or similar comments, through a representative member where possible.

289 (3) Comments shall remain pertinent to the issue being discussed.

290 (4) A person who disrupts a meeting shall leave the meeting room and the premises if
291 ordered to do so by the chair.

292 (5) Time allotted to one speaker may not be reassigned to another speaker.

293 (6) The time allotted for comments under this section may be increased or decreased by
294 the chair, or in the chair's absence, the vice chair, as may be appropriate to assure opportunity for the
295 maximum number of persons to appear.

296 (e) Waiver. Subject to the approval of the chair, a requirement of this section may be waived in
297 the public interest if necessary for the performance of the responsibilities of the board or the
298 department.

299

300 §206.23 Public Hearings.

301 (a) The board may hold public hearings:

302 (1) to consider the adoption of rules;

303 (2) in accordance with the programs operated by the department; and

304 (3) to provide, when deemed appropriate by the board or when otherwise required by
305 law, for public input regarding any other issue under the jurisdiction of the board.

306 (b) The executive director or designee may hold public hearings under subsection (a)(2) and (3)
307 of this section.

308 (c) Public hearings shall be conducted in a manner that maximizes public access and input while
309 maintaining proper decorum and orderliness, and shall be governed by the following guidelines:

310 (1) Questioning of those making presentations shall be reserved to board members, the
311 executive director, the executive director's designee, or if applicable, the presiding officer.

312 (2) Organizations, associations, or groups are encouraged to present their commonly
313 held views and same or similar comments through a representative member where possible.

314 (3) Presentations shall remain pertinent to the issue being discussed.

315 (4) A person who disrupts a public hearing shall leave the hearing room and the
316 premises if ordered to do so by the chair, the executive director, the executive director's designee, or, if
317 applicable, the presiding officer.

318 (5) Time allotted to one speaker may not be assigned to another speaker.

319 (d) Persons who have special communication or accommodation needs and who plan to attend
320 a public hearing under this section may contact the department's contact listed in the public hearing
321 notice for the purpose of requests for auxiliary aids of services. Requests shall be made at least two days
322 before the hearing. The department shall make every reasonable effort to accommodate these needs.

323

324 **SUBCHAPTER C. PROCEDURE FOR PETITION TO ADOPT RULES**

325 **43 TAC §206.41**

326 **STATUTORY AUTHORITY.**

327 The department adopts amendments to Chapter 206 under Government Code, §2001.004, which
328 requires state agencies to adopt rules of practice stating the nature and requirements of all available
329 formal and informal procedures; Government Code, §2001.021(b), which requires state agencies to adopt
330 rules that prescribe the form and procedures for a petition for rulemaking; Transportation Code,
331 §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to
332 adopt rules that are necessary and appropriate to implement the powers and the duties of the
333 department; and the statutory authority referenced throughout this preamble and in the rule text, which
334 is incorporated by reference.

335 **CROSS REFERENCE TO STATUTE.** The adopted amendments implement Government Code, §2001.021(b);
336 and Transportation Code, Chapters 1001 and 1002.

337

338 Text.

339 §206.41. Petition.

340 Any interested person may petition the department requesting the adoption of a rule. The
341 petition must be in writing to the executive director and contain the person's physical address in Texas, a
342 clear and concise statement of the substance of the requested rule, and a brief explanation of the purpose
343 of the requested rule. Within 60 days after receipt, the department will either deny the petition in writing,
344 stating its reasons therefore, or will initiate rulemaking proceedings in accordance with Government Code,
345 Chapter 2001, Subchapter B.

346

347 **SUBCHAPTER D. PROCEDURES IN CONTESTED CASES**

348 **STATUTORY AUTHORITY.**

349 The department adopts repeals to Chapter 206 under Government Code, §2001.039 which
350 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing
351 the rule; Government Code, §2001.004, which requires state agencies to adopt rules of practice stating
352 the nature and requirements of all available formal and informal procedures; and Transportation Code,
353 §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to
354 adopt rules that are necessary and appropriate to implement the powers and the duties of the
355 department.

356 **CROSS REFERENCE TO STATUTE.** The adopted repeals implement Government Code, §2001.004 and
357 §2001.039; and Transportation Code, Chapters 1001 and 1002.

358

359 Text.

360 §206.61. Scope and Purpose

361 §206.62. Definitions

362 §206.63. Filing of Petition

363 §206.64. Content of Petition

364 §206.65. Examination by Executive Director

365 §206.66. Initiation of Contested Cases, Service of Notice of Hearing, Standard of Review, and Burden of
366 Proof

367 §206.67. Discovery

368 §206.68. Evidence

369 §206.69. Withdrawal or Amendment of Proposal for Decision

370 §206.70. Filing of Exceptions and Replies

371 §206.71. Form of Exceptions and Replies

372 §206.72. Motions for Rehearing

373 §206.73. Extension of Time for Final Order

374

375 **SUBCHAPTER E. ADVISORY COMMITTEES**

376 **43 TAC §§206.92, 206.93 AND NEW 206.101**

377 **STATUTORY AUTHORITY.**

378 The department adopts amendments to Chapter 206 and adopts new §206.101 under
379 Transportation Code, §643.155, which authorizes the department to adopt rules to create a rules advisory
380 committee consisting of the public, the department, and representatives of motor carriers transporting
381 household goods using small, medium, and large equipment; Transportation Code, §1001.031, which
382 requires the board to establish advisory committees; Transportation Code, §1002.001, which provides the
383 board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and
384 appropriate to implement the powers and the duties of the department; Government Code, §2001.004,
385 which requires state agencies to adopt rules of practice stating the nature and requirements of all available
386 formal and informal procedures; Government Code, Chapter 2110, which sets out the requirements for
387 advisory committees and requires that the agency make rules to establish the purpose and tasks of the
388 committee and the manner in which the committee will report to the agency; and the statutory authority
389 referenced throughout this preamble and in the rule text, which is incorporated by reference.

390 **CROSS REFERENCE TO STATUTE.** The adopted amendments implement Government Code, §2001.004 and
391 Chapter 2110; and Transportation Code, §643.155 and Chapters 1001 and 1002.

392

393 Text.

394 **SUBCHAPTER D. ADVISORY COMMITTEES**

395 §206.92. Definitions.

396 The following words and terms, when used in this subchapter, shall have the following
397 meanings, unless the context clearly indicates otherwise.

398 (1) Advisory committee Any committee created by the board to make recommendations
399 to the board or to the executive director pursuant to Transportation Code, §1001.031 and §643.155.

400

401 (2) Board--The board of the Texas Department of Motor Vehicles.

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

403 (4) Executive director--The chief executive officer of the Texas Department of Motor
404 Vehicles.

405 (5) Member--An appointed member of an advisory committee created under this
406 subchapter.

407 (6) Presiding officer--The presiding officer of an advisory committee elected by the
408 membership of the advisory committee created under this subchapter.

409

410 §206.93. Advisory Committee Operations and Procedures.

411 (a) Role of advisory committee. The role of an advisory committee under this subchapter is to
412 provide advice and recommendations to the board or executive director. Advisory committees shall
413 meet and carry out their functions upon a request from the department or board for advice and
414 recommendations on any issues.

415 (b) Appointment and qualifications of advisory committee members. The board shall appoint
416 members to an advisory committee in accordance with Transportation Code, §643.155 and
417 §1001.031(b) by selecting potential members from a list provided to the board by the executive
418 director. Board members shall not serve as advisory committee members. Each advisory committee
419 shall elect from its members a presiding officer, who shall report the advisory committee's
420 recommendations to the board or the executive director in accordance with subsection (h) of this
421 section. The executive director may designate a division or divisions of the department to participate
422 with, or to provide subject-matter expertise, guidance, or administrative support to the advisory
423 committee as necessary.

424 (c) Composition of advisory committees. In making appointments to the advisory committees,
425 the board shall, to the extent practical, ensure representation of members from diverse geographical
426 regions of the state.

427 (d) Committee size and quorum requirements. An advisory committee shall be composed of a
428 reasonable number of members not to exceed 24 as determined by the board. A simple majority of
429 advisory committee members will constitute a quorum. An advisory committee may only deliberate on
430 issues within the jurisdiction of the department or any public business when a quorum is present.

431 (e) Terms of service. Advisory committee members will serve terms of four years. A member will
432 serve on the committee until the member resigns, is dismissed or replaced by the board, or the
433 member's term expires.

434 (f) Member training requirements. Each member of an advisory committee must receive training
435 regarding Government Code, Chapter 551; and Government Code, Chapter 552.

436 (g) Compliance with Open Meetings. The advisory committee shall comply with Government
437 Code, Chapter 551.

438 (h) Reporting recommendations. Recommendations of the advisory committee shall be reported
439 to the board at a board meeting prior to board action on issues related to the recommendations. The
440 recommendations shall be in writing and include any necessary supporting materials. The presiding
441 officer of the advisory committee or the presiding officer's designee may appear before the board to
442 present the committee's advice and recommendations. This subsection does not limit the ability of the
443 advisory committee to provide advice and recommendations to the executive director as necessary.

444 (i) Board and executive director use of advisory committee recommendations. In developing
445 department policies, the board and the executive director shall consider the written recommendations
446 submitted by advisory committees.

447 (j) Reimbursement. The department may, if authorized by law and the executive director,
448 reimburse advisory committee members for reasonable and necessary travel expenses.

449

450 §206.101. Public Access to Advisory Committee Meetings.

451 (a) Posted agenda items. A person may speak before an advisory committee on any matter on a
452 posted agenda by submitting a request, in a form and manner as prescribed by the department, prior to
453 the matter being taken up by the advisory committee. A person speaking before an advisory committee
454 on an agenda item will be allowed an opportunity to speak:

455 (1) prior to a motion by the advisory committee on the item; and

456 (2) for a maximum of three minutes, except as provided in subsections (d)(6) and (e) of
457 this section.

458 (b) Open comment period.

459 (1) At each regular advisory committee meeting, the advisory committee shall allow an
460 open comment period, not to exceed one hour, to receive public comment on any other matter that is

461 within the scope of the specific advisory committee under §206.94(a) of this title (relating to Motor
462 Vehicle Industry Regulation Advisory Committee (MVIRAC)), §206.95(a) of this title (relating to Motor
463 Carrier Regulation Advisory Committee (MCRAC)), §206.96(a) of this title (relating to Vehicle Titles and
464 Registration Advisory Committee (VTRAC)), §206.97(a) of this title (relating to Customer Service and
465 Protection Advisory Committee (CSPAC)), or §206.98(a) of this title (relating to Household Goods Rules
466 Advisory Committee (HGRAC)).

467 (2) A person wanting to make a comment under this subsection shall complete a
468 registration form, as provided by the department, prior to the beginning of the open comment period.

469 (3) Except as provided in subsections (d)(6) and (e) of this section, each person shall be
470 allowed to speak for a maximum of three minutes for each comment in the order in which the requests
471 to speak were received.

472 (c) Disability accommodation. Persons who have special communication or accommodation
473 needs and who plan to attend a meeting, may contact the department's contact listed in the posted
474 meeting agenda for the purpose of requests for auxiliary aids or services. Requests shall be made at
475 least two days before a meeting. The department shall make every reasonable effort to accommodate
476 these needs.

477 (d) Conduct and decorum. An advisory committee shall receive public input as authorized by this
478 section, subject to the following guidelines:

479 (1) questioning of speakers shall be reserved to advisory committee members and the
480 department's administrative staff;

481 (2) organizations, associations, or groups are encouraged to present their commonly
482 held views, and same or similar comments, through a representative member where possible;

483 (3) comments shall remain pertinent to the issue being discussed;

484 (4) a person who disrupts an advisory committee meeting shall leave the meeting room
485 and the premises if ordered to do so by the acting advisory committee chair;

486 (5) time allotted to one speaker may not be reassigned to another speaker; and

487 (6) the time allotted for comments under this section may be increased or decreased by
488 the acting advisory committee chair, as may be appropriate to assure opportunity for the maximum
489 number of persons to appear.

490 (e) Waiver. Subject to the approval of the acting advisory committee chair, a requirement of this
491 section may be waived in the public interest if necessary for the performance of the responsibilities of
492 the advisory committee or the department.

493

494 **SUBCHAPTER F. DEPARTMENT VEHICLE FLEET MANAGEMENT**

495 **43 TAC §206.111**

496 **STATUTORY AUTHORITY.**

497 The department adopts amendments to Chapter 206 under Government Code, §2171.1045,
498 which requires state agencies to adopt rules relating to the assignment and use of the agency's vehicles,
499 including a requirement that an agency may assign a vehicle to an individual administrative or executive
500 employee on a regular or everyday basis only if the agency makes a written documented finding that the
501 assignment is critical to the needs and mission of the agency; Transportation Code, §1002.001, which
502 provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are
503 necessary and appropriate to implement the powers and the duties of the department; and Government
504 Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and
505 requirements of all available formal and informal procedures.

506 **CROSS REFERENCE TO STATUTE.** The adopted amendments implement Government Code, §2001.004 and
507 §2171.1045; and Transportation Code, Chapters 1001 and 1002.

508

509 Text.

510 **SUBCHAPTER E. DEPARTMENT VEHICLE FLEET MANAGEMENT**

511 §206.111. Restrictions on Assignment of Vehicles.

512 (a) Definitions. The following words and terms, when used in this section, shall have the
513 following meanings, unless the context clearly indicates otherwise.

514 (1) Department--The Texas Department of Motor Vehicles.

515 (2) Division director--The chief administrative officer in charge of a division of the
516 department.

517 (3) Executive Director--The executive director of the Texas Department of Motor
518 Vehicles or the executive director's designee not below the level of division director.

519 (b) Motor pool. Each department vehicle, with the exception of a vehicle assigned to a field
520 employee, shall be assigned to the department's motor pool and be available for checkout.

521 (c) Regular vehicle assignment. The department may assign a vehicle to an individual
522 administrative or executive employee on a regular or everyday basis only if the executive director makes
523 a signed, written documented finding that the assignment is critical to the needs and mission of the
524 department.

525

526 **SUBCHAPTER G. ELECTRONIC SIGNATURES**

527 **43 TAC §206.131**

528 **STATUTORY AUTHORITY.**

529 The department adopts amendments to Chapter 206 under Government Code, §2001.004, which
530 requires state agencies to adopt rules of practice stating the nature and requirements of all available
531 formal and informal procedures; Government Code, §2054.060, which authorizes a digital signature to be
532 used to authenticate a written electronic communication sent to a state agency if the digital signature
533 complies with rules adopted by the Texas Department of Information Resources; and Transportation Code,
534 §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to
535 adopt rules that are necessary and appropriate to implement the powers and the duties of the
536 department.

537 **CROSS REFERENCE TO STATUTE.** The adopted amendments implement Government Code, §2001.004 and
538 §2054.060; and Transportation Code, Chapter 1002.

539

540 Text.

541 **SUBCHAPTER F. DIGITAL CERTIFICATES**

542 §206.131. Digital Certificates.

543 (a) General. This section prescribes the requirements that govern the issuance, use, and
544 revocation of digital certificates issued by the Texas Department of Motor Vehicles (department) for
545 electronic commerce in eligible department programs. The provisions of 1 TAC Chapter 203, Subchapter
546 B govern this section in the event of a conflict between that subchapter and a provision of this section.

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

549 (1) Business entity--An entity recognized by law through which business is conducted
550 with the department, including a sole proprietorship, partnership, limited liability company, corporation,
551 joint venture, educational institution, governmental agency, or non-profit organization.

552 (2) Certificate holder--An individual to whom a digital certificate is issued.

553 (3) Digital certificate--A certificate, as defined by 1 TAC §203.1, issued by the
554 department for purposes of electronic commerce.

555 (4) Digital signature--Has the same meaning assigned by 1 TAC §203.1.

556 (5) Division director--The chief administrative officer of a division of the department.

557 (c) Program authorization. A division director may authorize the use of digital signatures for a
558 particular program based on whether the applicable industries or organizations are using such
559 technology, the frequency of document submission, and the appropriateness for the program. The
560 solicitation documentation for eligible programs will include the information that digital signatures may
561 be used.

562 (d) Application and issuance of digital certificate.

563 (1) A request for a digital certificate shall be in writing and shall be signed by the
564 individual authorized by the business entity to request a digital certificate.

565 (2) The department may request information necessary to verify the identity of the
566 individual requestor or the identity of the individual to whom the certificate is to be issued. To verify
567 identity under this paragraph a person shall present:

568 (A) an unexpired Texas driver's license or unexpired personal identification
569 certificate with a photograph;

570 (B) an unexpired license to carry a handgun issued by the Texas Department of
571 Public Safety under Government Code, Chapter 411, Subchapter H;

572 (C) an unexpired United States passport;

573 (D) a United States citizenship (naturalization) certificate with identifiable
574 photograph;

575 (E) an unexpired United States Customs and Border Protection document that:

576 (i) was issued for a period of at least one year;

577 (ii) is valid for not less than six months from the date it is presented to
578 the department with a completed application; and

579 (iii) contains verifiable data and an identifiable photograph;

580 (F) an unexpired United States military identification card for active duty,
581 reserve, or retired personnel with an identifiable photograph; or

582 (G) a foreign passport with a valid or expired visa issued by the United States
583 Department of State with an unexpired United States Customs and Border Protection Form I-94:

584 (i) that was issued for a period of at least one year, is marked valid for a
585 fixed duration, and is valid for not less than six months from the date it is presented to the department
586 with a completed application; or

587 (ii) that is marked valid for the duration of the person's stay and is
588 accompanied by appropriate documentation.

589 (3) The department may take actions necessary to confirm that the individual who
590 signed the request is authorized to act on behalf of the business entity, including requiring the individual
591 requestor or the person authorizing the request to personally appear at the department location
592 responsible for the issuing of the certificate.

593 (4) The department shall issue a digital certificate only to an individual. Information
594 identifying the business entity that authorized the issuance of the certificate may be embedded in the
595 digital certificate.

596 (e) Refusal to issue a digital certificate. The department shall not issue a digital certificate if the
597 identity of the individual to whom the certificate is to be issued, or the identity of the individual

598 requesting the certificate on behalf of a business entity, cannot be established. The department will not
599 issue a digital certificate if the business entity on whose behalf the request is allegedly being made does
600 not authorize its issuance.

601 (f) Responsibilities of certificate holder. A certificate holder shall:

- 602 (1) maintain the security of the digital certificate;
603 (2) use the certificate solely for the purpose for which it was issued; and
604 (3) renew the certificate in a timely manner, if continued use is intended.

605 (g) Responsibilities of business entity. A business entity is responsible for:

- 606 (1) determining what individual may request a certificate for the business entity;
607 (2) determining to what individual a certificate is to be issued; and
608 (3) requesting within a reasonable time the revocation of the business entity's digital
609 certificate if the security of the certificate has been compromised or if the business entity is changing its
610 certificate holder.

611 (h) Revocation of certificate. The department shall revoke a digital certificate:

- 612 (1) upon receipt of a written request for revocation of the business entity's digital
613 certificate, signed by an individual authorized to act on behalf of the business entity for which it was
614 issued;
615 (2) for suspension or debarment of the individual or business entity; or
616 (3) if the department has reason to believe that continued use of the digital certificate
617 would present a security risk.

618 (i) Use of digital certificate.

- 619 (1) A digital certificate issued by the department shall only be used for the purpose of
620 digitally signing electronic documents filed with the department. Use of a digital certificate is binding on

621 the individual to whom the certificate was issued and the represented business entity, as if the
622 document were signed manually.

623 (2) The department may use the digital certificate to identify the certificate holder when
624 granting or verifying access to secure computer systems used for electronic commerce.

625 (j) Forms. The department may prescribe forms to request, modify, or revoke a digital
626 certificate.

627

628 **SUBCHAPTER H. RISK-BASED MONITORING AND PREVENTING FRAUDULENT ACTIVITY**

629 **43 TAC §206.151**

630 **STATUTORY AUTHORITY.**

631 The department adopts amendments to Chapter 206 under Transportation Code, §520.004, which
632 requires the department by rule to establish a risk-based system of monitoring and preventing fraudulent
633 activity related to vehicle registration and titling in order to efficiently allocate resources and personnel;
634 Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles
635 with the authority to adopt rules that are necessary and appropriate to implement the powers and the
636 duties of the department; and Government Code, §2001.004, which requires state agencies to adopt rules
637 of practice stating the nature and requirements of all available formal and informal procedures.

638 **CROSS REFERENCE TO STATUTE.** The adopted amendments implement Government Code, §2001.004;
639 and Transportation Code, §520.004 and Chapters 1001 and 1002.

640

641 Text.

642 **SUBCHAPTER G. RISK-BASED MONITORING AND PREVENTING FRAUDULENT ACTIVITY**

643 §206.151. Internal Risk-Based Monitoring System.

644 (a) All Texas Department of Motor Vehicle (department) users of the Registration and Title
645 System (RTS) are subject to periodic examination by the department. As a result of the examination, the
646 department will assign each RTS user a classification of priority or non-priority for the purposes of
647 prioritizing inspections to determine whether there is evidence of fraud by the user. In classifying an RTS
648 user, the department may consider factors including, but not limited to:

- 649 (1) the RTS user's transaction volume;
- 650 (2) the RTS user's past violations of the department's rules and procedures within the
651 last five years;
- 652 (3) title error investigations performed by the department on titles issued by the RTS
653 user;
- 654 (4) public complaints received by the department against the RTS user; and
- 655 (5) discrepancies in data reflecting the RTS user's transactions.

656 (b) It is the department's goal to inspect each RTS user as follows:

- 657 (1) if the RTS user is classified as priority, the RTS user will be inspected not less than
658 twice per year; or
- 659 (2) if the RTS user is classified as non-priority, the RTS user will be inspected not less
660 than once per year.

661 (c) Inspections under this section may be virtual, on premises at the RTS user's location, or a
662 combination of both.