

1 **ADOPTION OF REVISIONS TO**
2 **SUBCHAPTER F. COMPLIANCE**
3 **§219.82**
4 **SUBCHAPTER H. ENFORCEMENT**
5 **§§219.120, 219.121 AND 219.126**
6 **REPEAL OF**
7 **SUBCHAPTER H. ENFORCEMENT**
8 **§§219.122, 219.124 AND 219.127**

9
10 **INTRODUCTION.** The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas
11 Administrative Code (TAC) Subchapter F, Compliance, §219.82; and Subchapter H, Enforcement,
12 §§219.120, 219.121 and 219.126. The department adopts amendments to §§219.82, 219.120, 219.121
13 and 219.126 without changes to the proposed text as published in the December 29, 2023, issue of the
14 *Texas Register* (48 TexReg 8274). The department also adopts the repeal of Subchapter H, Enforcement,
15 §§219.122, 219.124 and 219.127 without changes. The rules will not be republished.

16 The adopted amendments and repeals delete certain language regarding adjudicative practice
17 and procedure. In addition, amendments refer to adopted new Chapter 224 of this title (relating to
18 Adjudicative Practice and Procedure), which the department adopts in this issue of the *Texas Register*.
19 Adopted new Chapter 224 includes all department adjudicative practice and procedure rules in one
20 chapter.

21 **REASONED JUSTIFICATION.** Adopted amendments to §219.82 delete the word “enforcement” and add a
22 reference to adopted new Chapter 224, which applies to any adjudicative practice and procedure under
23 the department’s rules, including Chapter 219.

1 The adopted amendment to the heading for Subchapter H changes the heading from
2 “Enforcement” to “Administrative Penalties and Sanctions.” This amendment makes the heading for
3 Subchapter H consistent with the rules under Subchapter H because the amendments and repeals change
4 the contents of this subchapter.

5 The adopted amendments to §219.120 make the section consistent with the amendments to and
6 repeals of sections within Subchapter H. An adopted amendment to §219.120 also states that the
7 enforcement actions under this chapter are governed by adopted new Chapter 224 of this title (relating
8 to Adjudicative Practice and Procedure) and Transportation Code, Chapters 621 through 623 for clarity
9 and ease of reference.

10 Adopted amendments to §219.121 replace the language with a summary of the department’s
11 authority under Transportation Code, §623.271 to investigate and impose an administrative penalty or
12 revoke an oversize or overweight permit. An adopted amendment to §219.121 deletes subsection (a)
13 because it repeats the language found in Transportation Code, §623.271. It is not necessary to repeat
14 statutory language in rules. The adopted amendment to the title of §219.121 includes the word
15 “sanctions” and a reference to Transportation Code, §623.271 to address the expanded scope of §219.121
16 due to the amendments and to distinguish §219.121 from §219.126 of this title (relating to Administrative
17 Penalty for False Information on Certificate by a Shipper) regarding the administrative penalty under
18 Transportation Code, §623.272.

19 An adopted amendment to §219.121 deletes subsection (b) regarding the calculation of
20 administrative penalties under Transportation Code, §623.271. The language in deleted §219.121(b) is
21 addressed in adopted new §224.115 of this title (relating to Administrative Penalty and Sanction
22 Assessment; Probation of Suspension). In this issue of the *Texas Register*, the department adopts new
23 Chapter 224 of this title (relating to Adjudicative Practice and Procedure).

1 Adopted amendments to §219.126 cite to Transportation Code, §623.272 and modify the
2 language to summarize the department’s authority to investigate and impose an administrative penalty
3 under Transportation Code, §623.272. Also, an adopted amendment to §219.126 adds a comma to the
4 citation to Transportation Code, §623.274(b) for consistency with other department rules. Further, an
5 adopted amendment to §219.126 deletes subsection (b) because an amendment to §219.120 states that
6 the enforcement actions under Chapter 219 are governed by adopted new Chapter 224 of this title
7 (relating to Adjudicative Practice and Procedure) and Transportation Code, Chapters 621 through 623. In
8 addition, an adopted amendment to §219.126 deletes subsection (c) regarding the calculation of an
9 administrative penalty under §219.126. The language in deleted §219.126(c) is addressed in adopted new
10 §224.115 of this title (relating to Administrative Penalty and Sanction Assessment; Probation of
11 Suspension). In this issue of the *Texas Register*, the department adopts new Chapter 224 of this title
12 (relating to Adjudicative Practice and Procedure). Due to the deletions of §219.126(b) and (c), an adopted
13 amendment to §219.126 deletes “(a)” because there is only one subsection in §219.126.

14 The department adopts the repeal of §219.122. Section 219.122(a) repeats the language found in
15 Transportation Code, §623.271. It is not necessary to repeat statutory language in rules. Section
16 219.122(b) was not expressly authorized under Transportation Code, Chapter 623.

17 The department also adopts the repeal of §219.124 and §219.127. In this issue of the *Texas*
18 *Register*, the department adopts new Chapter 224, which includes the language from §219.124 and
19 §219.127 with some modifications.

20 **SUMMARY OF COMMENTS.**

21 No comments on the proposed amendments and repeals were received.

22

23

1 **SUBCHAPTER F. COMPLIANCE**

2 **43 TAC §219.82**

3 **STATUTORY AUTHORITY.** The department adopts amendments under Transportation Code, §621.008,
4 which authorizes the board to adopt rules that are necessary to implement and enforce Transportation
5 Code, Chapter 621; Transportation Code, §622.002, which authorizes the board to adopt rules that are
6 necessary to implement and enforce Transportation Code, Chapter 622, including Transportation Code,
7 §622.051, *et seq.*, which authorize the department to issue a permit for transporting poles required for
8 the maintenance of electric power transmission and distribution lines; Transportation Code, §623.002,
9 which authorizes the board to adopt rules that are necessary to implement and enforce Transportation
10 Code, Chapter 623; Transportation Code, §623.271, which authorizes the department to impose an
11 administrative penalty or revoke an oversize or overweight permit issued under Transportation Code,
12 Chapter 623, and states that the notice and hearing requirements under Transportation Code, §643.2525
13 apply to the imposition of an administrative penalty or the revocation of a permit under §623.271;
14 Transportation Code, §623.272, which authorizes the department to impose an administrative penalty on
15 a shipper who violates a provision under Transportation Code, §623.272 or §623.274, and states that the
16 notice and hearing requirements under Transportation Code, §643.2525 apply to the imposition of an
17 administrative penalty under §623.272; Transportation Code, §1002.001, which authorizes the board to
18 adopt rules that are necessary and appropriate to implement the powers and duties of the department
19 under the Transportation Code and other laws of this state; Government Code, §2001.004, which requires
20 state agencies to adopt rules of practice stating the nature and requirements of all available formal and
21 informal procedures; Government Code, §2001.054, which specifies the requirements regarding the
22 grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license; and the statutory

1 authority referenced throughout the preamble and in the rule text, which is incorporated herein by
2 reference.

3 **CROSS REFERENCE TO STATUTE.** The amendments implement Transportation Code, Chapters 621, 622,
4 and 623; and Government Code, Chapter 2001.

5
6 Text.

7 §219.82. Falsification of Information on Application and Permit.

8 (a) A person who provides false information on the permit application or another form required
9 by the department for the issuance of an oversize or overweight permit commits a violation of this
10 chapter and is subject to revocation of an oversize or overweight permit and the provisions of
11 Subchapter H of this chapter and Chapter 224 of this title (relating to Adjudicative Practice and
12 Procedure).

13 (b) A person violates this chapter if the person produces a counterfeit permit or alters a permit
14 issued by the department.

15

16 **SUBCHAPTER H. ENFORCEMENT**

17 **43 TAC §§219.120–219.122 AND 219.124–219.127**

18 **STATUTORY AUTHORITY.** The department adopts amendments and repeals under Transportation Code,
19 §621.008, which authorizes the board to adopt rules that are necessary to implement and enforce
20 Transportation Code, Chapter 621; Transportation Code, §622.002, which authorizes the board to adopt
21 rules that are necessary to implement and enforce Transportation Code, Chapter 622, including
22 Transportation Code, §622.051, *et seq.*, which authorize the department to issue a permit for transporting
23 poles required for the maintenance of electric power transmission and distribution lines; Transportation

1 Code, §623.002, which authorizes the board to adopt rules that are necessary to implement and enforce
2 Transportation Code, Chapter 623; Transportation Code, §623.271, which authorizes the department to
3 impose an administrative penalty or revoke an oversize or overweight permit issued under Transportation
4 Code, Chapter 623, and states that the notice and hearing requirements under Transportation Code,
5 §643.2525 apply to the imposition of an administrative penalty or the revocation of a permit under
6 §623.271; Transportation Code, §623.272, which authorizes the department to impose an administrative
7 penalty on a shipper who violates a provision under Transportation Code, §623.272 or §623.274, and
8 states that the notice and hearing requirements under Transportation Code, §643.2525 apply to the
9 imposition of an administrative penalty under §623.272; Transportation Code, §1002.001, which
10 authorizes the board to adopt rules that are necessary and appropriate to implement the powers and
11 duties of the department under the Transportation Code and other laws of this state; Government Code,
12 §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements
13 of all available formal and informal procedures; Government Code, §2001.054, which specifies the
14 requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of
15 a license; and the statutory authority referenced throughout the preamble and in the rule text, which is
16 incorporated herein by reference.

17 **CROSS REFERENCE TO STATUTE.** The amendments and repeals implement Transportation Code, Chapters
18 621, 622, and 623; and Government Code, Chapter 2001.

19
20 Text.

21 §219.120. Purpose.

22 The purpose of this subchapter is to provide for administrative penalties and sanctions under
23 Transportation Code, Chapters 621 through 623. The enforcement actions under this chapter are

1 governed by Chapter 224 of this title (relating to Adjudicative Practice and Procedure) and
2 Transportation Code, Chapters 621 through 623.

3

4 §219.121. Administrative Penalties and Sanctions under Transportation Code, §623.271.

5 Transportation Code, §623.271 authorizes the department to investigate and impose an
6 administrative penalty or revoke an oversize or overweight permit issued under Transportation Code,
7 Chapter 623.

8

9 §219.126. Administrative Penalty for False Information on Certificate by a Shipper.

10 Transportation Code, §623.272 authorizes the department to investigate and impose an
11 administrative penalty on a shipper who does not provide a shipper's certificate of weight as required
12 under Transportation Code, §623.274(b) or provides false information on a shipper's certificate of
13 weight that the shipper delivers to a person transporting a shipment.