

1	ADOPTION OF REVISIONS TO
2	SUBCHAPTER A. GENERAL PROVISIONS
3	43 TAC §221.1 and §221.2
4	SUBCHAPTER B. LICENSING
5	43 TAC §§221.11–221.20
6	SUBCHAPTER C. LICENSED OPERATIONS
7	43 TAC §§221.41–221.54
8	SUBCHAPTER D. RECORDS
9	43 TAC §§221.71–221.73
10	SUBCHAPTER E. ADMINISTRATIVE PROCEDURES
11	43 §§221.91–221.96
12	SUBCHAPTER F. ADMINISTRATIVE SANCTIONS
13	43 TAC §§221.111, 221.112, and 221.115

14

15 **INTRODUCTION.** The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas

16 Administrative Code (TAC) Subchapter A, General Provisions, §221.1 and §221.2; Subchapter B, Licensing,

17 §§221.11, 221.13–221.20; Subchapter C, Licensed Operations, §§221.41–221.47 and 221.49–221.54;

18 Subchapter D, Records, §§221.71–221.73; and Subchapter F, Administrative Sanctions, §§221.111,

19 221.112, and 221.115. The department also adopts the repeal of §221.48 and Subchapter E,

20 Administrative Procedures, §§221.91–221.96. Subchapter F is also adopted for relettering as Subchapter

21 E because the preceding subchapter is repealed.

1 Sections 221.1, 221.11, 221.14–221.20, 221.41, 221.43–221.46, 221.49, 221.54, 221.72, 221.111
2 221.112, and 221.115 are adopted without changes to the proposed text as published in the December
3 29, 2023, issue of the *Texas Register* (48 TexReg 8278) and will not be republished.

4 Section 221.13 is adopted with changes to the proposed text published in the December 29, 2023,
5 issue of the *Texas Register* (48 TexReg 8278) and will be republished. Sections 221.2, 221.42, 221.47,
6 221.50–221.53, 221.71, and 221.73 are adopted with nonsubstantive changes to the proposed text
7 published in the December 29, 2023, issue of the *Texas Register* (48 TexReg 8278) and will be republished.

8

9 **EXPLANATION OF ADOPTED AMENDMENTS AND REPEALS**

10

11 Subchapter A. General Provisions

12 Adopted conforming amendments to §221.1 are necessary to more completely describe the
13 scope of the chapter to include holders of independent motor vehicle dealer's general distinguishing
14 numbers (GDN) issued under Transportation Code, Chapter 503, who act as salvage vehicle dealers and
15 to add a reference to persons exempt from licensure. House Bill
16 (HB) 1667, 86th Legislature, Regular Session (2019), added Occupations Code, §2302.009 and amended
17 Occupations Code, §2302.101, granting independent motor vehicle dealers the ability to perform salvage
18 activities without obtaining a salvage vehicle dealer's license, but at the same time requiring these dealers
19 to comply with Occupations Code, Chapter 2302 requirements. A second adopted amendment is
20 necessary to add a reference to persons exempt from licensure as Occupations Code, Chapter 2302
21 contains exceptions for metal recyclers, insurance companies, and used automotive recyclers licensed
22 under Occupations Code, Chapter 2309.

1 The adopted amendments to §221.2 add the following definitions for consistency: “day” in
2 §221.2(4) to mean a calendar day, unless otherwise stated; “director” in §221.2(6) to mean the division
3 director that regulates the distribution and sales of motor vehicles, including any department staff to
4 whom the director delegates any duty assigned under this chapter; and “General Distinguishing Number
5 (GDN)” in §221.2(7) to match the definition of the same term in Occupations Code, §2301.002(17). The
6 phrase “or context clearly indicates otherwise” that was proposed in §221.2(4) was not adopted because
7 it was duplicative of the first sentence in §221.2. The proposed citation to the Occupations Code in
8 §221.2(7) was simplified at adoption to remove the subsection citation, to align it with the citation format
9 used in §221.2(27). An adopted amendment to §221.2(8) is necessary to conform the definition of “license
10 holder” to include an independent motor vehicle dealer GDN authorized to operate as a salvage vehicle
11 dealer consistent with Occupations Code, §2302.009 and §2302.101. An adopted amendment to
12 renumbered §221.2(15) is necessary to substitute the current definition of “person” for the definition in
13 Occupations Code, §2301.002(27) for consistency. The adopted amendments to §221.2(4) removes the
14 definition of “corporation” because a special definition for corporation is unnecessary. The adopted
15 amendments to §221.2(6) remove the definition of “final order authority” because the sections of Chapter
16 221 that use the term “final order authority”, §221.93 and §221.95, are repealed and are incorporated
17 into new adopted Chapter 224 of this title (relating to Adjudicative Practice and Procedure). The adopted
18 amendments remove the definitions of “major component part” in §221.2(8) and “minor component
19 part” in §221.2(10) because these two terms are not referenced in Chapter 221. Adopted amendments
20 also renumber the definitions to correspond with the adopted revisions.

21

22 Subchapter B. Licensing

1 The adopted amendment to §221.11(b) adds a reference to reflect that a motor vehicle is required
2 to be both titled and registered to operate on public highways under Transportation Code, §502.040.
3 Adopted amendments to §221.11(c) substitute a statutory reference to the Occupations Code for deleted
4 rule language that duplicated the statute, to ensure consistency with any future statutory changes.

5 An adopted amendment to §221.13(c) sets a \$25 license amendment fee. Occupations Code,
6 §2302.052 assigns the board the duty of setting reasonable and necessary fees. Occupations Code,
7 §2301.264(e) prescribes a \$25 license amendment fee for licenses issued under Occupations Code,
8 Chapter 2301 and Transportation Code, Chapter 503. The department construes the fee amount
9 prescribed in statute to be reasonable and necessary and adopts the same fee because department
10 resources required to process license amendment are similar across all license types. The department
11 added the following clarifying language to §221.13(c) at adoption to identify the specific types of license
12 amendments to which the fee applies: “and applies to a license amendment changing a license holder’s
13 name, changing ownership or management, or when adding a new business address and assumed name.”

14 An adopted amendment to §221.14(a) removes redundant language without changing the
15 meaning of the rule. Occupations Code, §2302.103 requires an applicant to submit an application on a
16 form prescribed by the department. Adopted amendments to §221.14(b) update the application
17 requirements for a new salvage vehicle dealer license, license amendment, or license renewal to prevent
18 and deter fraud. These adopted amendments include language consistent with current practices and new
19 requirements to deter and prevent fraud in the application process, such as fingerprinting and site visits,
20 that have proven to be successful in reducing fraud in the issuance of dealer GDNs, a related license type.
21 Adopted amendments §221.14(b) require that the application must be on a department-approved form;
22 completed by the applicant, license holder, or authorized representative who is an employee, a licensed
23 attorney, or a certified public accountant; and accompanied by the required fee from an account held by

1 the applicant or license holder, or from a trust account of the applicant or license holder, or from a trust
2 account of the applicant's or license holder's attorney or certified public accountant. Adopted new
3 §221.14(c) modernizes the application process by requiring license applications and fees to be submitted
4 to the department electronically and paid for by credit card or electronic funds transfer. Adopted new
5 §221.14(d) is intended to reduce application fraud by giving the department the option to require a site
6 visit to determine whether a business location meets the requirements of Chapter 221. Adopted new
7 §221.14(e) reduces application fraud by requiring salvage vehicle dealers applying for or renewing a
8 license to comply with fingerprint requirements in §211.6 of Title 43 (relating to Fingerprint Requirements
9 for Designated License Types). This adopted fingerprinting requirement is a one-time requirement if a
10 person maintains an active license. Adopted new §221.14(f) clarifies that the department will not provide
11 information regarding the status of an application, application deficiencies, or pending new license
12 numbers to a person other than to the applicant, license holder, or authorized representative, unless the
13 person files a written request under the Texas Public Information Act. These adopted revisions to §221.14
14 provide more clarity regarding the salvage vehicle dealer license application process and are necessary to
15 deter and prevent fraud.

16 Adopted amendments to §221.15 clarify and update the information required on a salvage vehicle
17 dealer application. Adopted new §221.15(a) clarifies the application process by providing information
18 about the steps and information required for a new salvage dealer license applicant. These steps include
19 registering for an account in the online licensing system, designating an account administrator, providing
20 the name and email address for that person, and providing the business telephone number, name,
21 business type, and social security number or employer identification number, as applicable. Adopted new
22 §221.15(a) specifies that the applicant's license account administrator must be an owner, officer,
23 manager, or bona fide employee to reduce fraud and increase responsiveness and accountability by the

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

1 identification number, ownership percentage, and non-profit or publicly-traded status for each legal
2 entity that owns the applicant in full or in part; the name, social security number, date of birth, and
3 identity document information of at least one manager or other bona fide employee who will be present
4 at the business location if the license holder is out of state or will not be present during business hours at
5 the business location in Texas. To facilitate the department's evaluation of applicants and its efforts to
6 protect the public from crime, adopted amendments to §221.15(b)(8) clarify that criminal history record
7 information required for an application is criminal history record information under the laws of Texas,
8 another state in the United States, the United States, and any foreign jurisdiction for each person listed
9 in the application, and requires an applicant to provide a description of the criminal offense, the date, and
10 location. Adopted amendments in §221.15(b)(9) clarify that applicants are required to provide their
11 military service status to enable the department to determine eligibility for special licensing
12 considerations provided under law to veterans. Adopted amendments incorporated in §221.15(b)(10) are
13 necessary to facilitate department investigations of applicants by clarifying the requirement for an
14 applicant to provide information regarding previously submitted license applications, whether under this
15 chapter or the laws of another jurisdiction, the result of previous applications, and whether the applicant
16 has ever been the holder of a license issued by the department or another jurisdiction that was revoked,
17 suspended, or subject of an order issued by the board or by another jurisdiction, or has an unpaid
18 administrative penalty. These adopted requirements in §221.15(b) are necessary for the department to
19 be able to discharge its responsibilities under Occupations Code, §2302.104, which prescribes information
20 that must be obtained from an applicant, and Occupations Code, §2302.105, which requires the
21 department to investigate an applicant's qualifications. Adopted amendments in §221.15(b)(11) require
22 an applicant to provide information about each business location and the business premises sufficient to
23 demonstrate compliance with related premises rules in Chapter 221, Subchapter C. Adopted amendments

1 in §221.15(b)(12) require an applicant to provide a signed Certification of Responsibility, which is a
2 department form signed by the applicant, in which the applicant certifies that the information provided
3 or attached to the application is true, complete, and correct, and that the applicant has complied with all
4 applicable state laws and ordinances. This certification is necessary to ensure that an applicant
5 understands the applicant's responsibilities under Texas law and the consequences of providing
6 incomplete or false information.

7 Adopted amendments in new §221.15(c) clarify that a salvage vehicle dealer renewing or
8 amending its license must verify its current license information and provide information relating to any
9 new requirements or changes to the license.

10 Adopted amendments to §221.16 require an applicant to attach a legible and accurate image of
11 each required document. These amendments are necessary to allow the department to investigate and
12 process the application as required under Occupations Code, Chapter 2302. Adopted amendments to
13 §221.16 specify that required attachments include the certificate of filing, certificate of incorporation, or
14 certificate of registration on file with the Secretary of State, if applicable; each assumed name certificate
15 on file with the Secretary of State or county clerk; at least one identity document for each natural person
16 listed in the application; documents proving premises ownership or a valid lease; business premises
17 photos with a notarized affidavit; a Texas Use and Sales Tax Permit; a Franchise Tax Account Status issued
18 by the Comptroller's Office; and any other documents required by the department to evaluate the
19 application under current law and board rules. These adopted amendments consolidate previous separate
20 requirements for sole proprietors, general partnerships, limited partnerships, limited liability companies,
21 and corporations and are necessary to improve readability. The adopted amendments to §221.16(3) also
22 update references to types of identification consistent with current usage and statutory changes. The
23 adopted amendments to §§221.16(4) and (5) clarify and add requirements that the license application

1 includes documents proving business premises ownership or a fully executed lease or sublease agreement
2 for the license period, and business premises photos with a notarized affidavit certifying that all premises
3 requirements in Subchapter C are met and will be maintained during the license period. These changes
4 are necessary to prevent and deter fraud in the application process and to improve compliance with
5 premises requirements in Chapter 221, Subchapter C. These requirements are consistent with GDN dealer
6 requirements, which have proven successful in preventing and deterring fraud and improving compliance
7 with premises requirements. An adopted amendment to §221.16(8) authorizes the department to require
8 any other documents necessary to evaluate the application to ensure that the department can comply
9 with its statutory duty to investigate each license application as required under Occupations Code,
10 §2302.105.

11 An adopted amendment to §221.17(a) exempts a license holder from any increased fee or penalty
12 for failing to timely renew a license because the license holder was on active military duty. This
13 amendment is necessary to conform to Occupations Code, §55.002. Adopted amendments to §221.17(b)
14 would add the phrase “military service members or” in multiple places in subparagraphs (1), (2), and (3).
15 These adopted amendments are necessary to implement Senate Bill (SB) 422, 88th Legislature, Regular
16 Session (2023), which entitles military service members with out-of-state licenses to be eligible for special
17 business or occupational authorization or licensing consideration that is already afforded for military
18 spouses. Adopted amendments in §221.17(b)(1) delete duplicate references to Occupations Code,
19 §55.0041 and substitute the phrase “being stationed” for “residency” to clarify that eligibility for special
20 licensing consideration for both the military service member and military spouse is based on the military
21 service member being stationed in Texas rather than residence in Texas. Three other amendments to
22 §221.17(b)(3) are adopted to implement SB 422. Adopted amendments change the word “may” to “shall”
23 and add the phrase “within 30 days” to set a deadline by which the department must issue a license to a

1 military service member or spouse. This change is necessary to implement Occupations Code, §55.005(a),
2 as amended by SB 422, which requires a state agency to issue a license no later than the 30th day after
3 an application is filed. Issuing a license within 30 days would also fulfill the requirement of Occupations
4 Code, §55.0041, as amended by SB 422, which requires that the department confirm within 30 days that
5 the military service member or military spouse is authorized to engage in the licensed business or
6 occupation. Another adopted amendment to §221.17(b)(3) adds the phrase “or modified” to recognize
7 that provisions of Occupations Code, Chapter 55 may require the department to modify standard licensing
8 processes when processing an application for a military service member or military spouse, and to clarify
9 that the department’s licensing process for military service members and military spouses will be in
10 accordance with all Occupations Code, Chapter 55 requirements. Adopted new §221.17(c) clarifies that
11 the requirements and procedures authorized under Texas law do not modify or alter rights under federal
12 law.

13 Adopted amendments to §221.18(a)–(c) are necessary to modernize notification requirements by
14 specifying that a license holder must notify the department if the license holder opens or closes an
15 additional location by electronically submitting a license amendment in the department’s designated
16 licensing system. Adopted amendments to §221.18(a)(2) and §221.18(b)(2) remove surplus language. An
17 adopted amendment to §221.18(c) clarifies the appropriate action a license holder must take when
18 closing a location depending on the number of locations listed in the license. Adopted new §221.18(d)
19 clarifies an existing requirement that a license holder must apply for a new license if the license holder is
20 opening a new location not located in the same county.

21 Adopted amendments to §221.19 update the section title to reflect the scope of the section.
22 Adopted amendments to §221.19(a) and (b) modernize the application process by requiring the license
23 holder to submit a license amendment application electronically in the department’s designated licensing

1 system. An adopted amendment to §221.19(a) clarifies that a license holder is required to submit a change
2 in assumed name to the department to enable the department to investigate whether the assumed name
3 is misleading, deceptive or otherwise violates a law or rule. Adopted new §221.19(b)(4) clarifies that a
4 license holder must notify the department of a change in business email address, telephone number,
5 mailing address, or license contact so that the department can communicate with the license holder.
6 Another adopted amendment to §221.19(c) requires a license holder to provide the department with any
7 information necessary for the department to fully evaluate a license amendment and is necessary to
8 enable the department to conduct a thorough and efficient investigation before approving a license
9 amendment consistent with the department’s obligations under Occupations Code, §2302.105.

10 Adopted amendments to §221.20(a), (d), (e), (h), and relettered (j) simplify the language and
11 improve readability without changing meaning. An adopted amendment substitutes “A” for “The” and
12 corrects a verb to “is” from “are” for consistency and clarity. Adopted amendments to §221.20(c) change
13 “salvage vehicle dealer’s” to “license holder’s” for clarity and consistency, and correct the time frame in
14 which the department will provide notice of license expiration from 30 to 31 days consistent with
15 Occupations Code, §2302.152. An adopted amendment to §221.20(d) adds “of expiration” to clarify a
16 reference to a written notice. An adopted amendment to §221.20(e) adds “a” before “salvage vehicle
17 dealer” and adds “license” after “salvage vehicle dealer” to clarify the description of a renewal fee. An
18 adopted amendment to §221.20(i) clarifies that a license holder who timely submits a renewal application
19 may continue to operate under the expired license until the status of the renewal application is
20 determined by the department in accordance with Government Code, §2001.054. An adopted
21 amendment reletters the language that previously appeared in §220.20(i) to §220.20(j).

22

23 Subchapter C. Licensed Operations

1 Adopted amendments to §221.41 simplify and modernize the language and add clarity without
2 changing meaning. Adopted amendments to §221.41(1) add new requirements that apply if a salvage
3 dealer leases or subleases property for a business location. Adopted new §221.41(1)(D) and (E) require a
4 property owner signature or a signed and notarized statement from the property owner if the location is
5 subleased and the property owner is not the lessor. The property owner statement must include the
6 property owner’s full name, email address, mailing address, and phone number and confirm that the
7 dealer is authorized to sublease the location and to operate a salvage vehicle dealer business. These
8 adopted changes are necessary to prevent fraud in the application process, to prevent consumer abuse,
9 and to protect public health and safety. These provisions also protect salvage vehicle dealer applicants:
10 the department has received applications from dealers with a signed sublease who are unable to operate
11 a business because the property owner has not authorized a dealer to operate such a business on the
12 property. Adopted amendments to §221.41(2) substitute “under” for “by” and “municipality” for “city”
13 for clarity and consistency in use of these terms.

14 Adopted amendments to the title and language of §221.42 make minor wording changes to clarify
15 and remove surplus wording.

16 Adopted amendments to §221.43(a) require a salvage vehicle dealer who sells to a retail customer
17 to be open at least four days per week for at least four consecutive hours per day and prohibit the office
18 from being open solely by appointment. These adopted amendments create standard minimum business
19 hours across the industry by requiring the office of a salvage pool operator selling only to a wholesale
20 dealer to be open at least two weekdays per week for at least two consecutive hours per day, and not
21 solely by appointment. Occupations Code, §2302.0015 requires a person to allow the department, law
22 enforcement officers, and others to enter and inspect a business during normal business hours. Minimum
23 normal business hours are not defined in statute or rule; therefore, these adopted amendments are

1 necessary to establish these standards, and the board is authorized to do so under the rulemaking
2 authority in Occupations Code, §2302.051. The adopted minimum standards for salvage vehicle dealers
3 are consistent with current minimum requirements for GDN dealers in §215.140(1)(A) of this title (relating
4 to Established and Permanent Place of Business Premises Requirements); the adopted minimum
5 standards for salvage pool operators that only sell to wholesale dealers are consistent with current
6 requirements for wholesale GDN dealers in §215.140(2) of this title (relating to Established and
7 Permanent Place of Business Premises Requirements). These adopted minimum hours are necessary to
8 deter and prevent fraud in the application process, prevent consumer harm, and ensure the department
9 and others authorized by law have access to a salvage vehicle dealer’s location for inspection purposes.
10 Adopted amendments to §221.43(c) and (d) make minor word changes to add clarity. An additional
11 adopted amendment to §221.43(d) gives license holders more flexibility by adding options for the office
12 telephone to be answered by the owner or a voicemail service in addition to a bona fide employee,
13 answering service, or answering machine.

14 Adopted amendments to §221.44(a) clarify that a permanent business sign must be made of
15 durable, weather resistant material. Adopted amendments to §221.44(b) clarify that a sign will be
16 considered permanently mounted if it is bolted to an exterior building wall or bolted or welded to a
17 dedicated sign pole or a sign support permanently installed in the ground. Adopted new §221.44(c)
18 authorizes a license holder to use a temporary sign or banner if that license holder can show proof that a
19 business sign that meets the above requirements has been ordered and provides a written statement that
20 the business sign will be promptly and permanently mounted upon delivery and is consistent with the
21 flexibility provided to other license holders. This adopted amendment is necessary to allow a license
22 holder to open their business without delay if all other department requirements are met. Adopted new
23 §221.44(d) clarifies that a license holder is still responsible for ensuring that the business sign complies

1 with applicable municipal ordinances and that any signage requirements in a lease comport with the
2 requirements of this section.

3 An adopted amendment to §221.45(a) clarifies that a business must be located in a building that
4 has a permanent roof. An adopted amendment to §221.45(c) clarifies that a business may not operate in
5 a room or building not open to the public. Adopted new §221.45(e) clarifies that a business may not be
6 virtual or provided by a subscription for office space or office services. Adopted new §221.45(f) requires
7 the physical address of a business be in Texas, recognized by the U.S. Postal Service, and have an assigned
8 emergency services property address, to ensure that both the public and department personnel can
9 readily locate the place of business, and to confirm the municipality in which the property is located.
10 Adopted new §221.45(g) modernizes the business access requirements by requiring the business to be
11 equipped with internet access. These amendments are consistent with minimum standards for public
12 health and safety and business operation, allow the department and the public access to the license
13 holder, and are necessary to deter and prevent fraud in the licensing process.

14 Adopted amendments to §221.46 regarding the requirements to display a license make minor
15 wording changes to simplify language without changing meaning and are necessary to add clarity.

16 An adopted amendment to §221.47 clarifies that a salvage vehicle dealer must properly process
17 vehicle records in accordance with §217.86 of this title (relating to Dismantling, Scrapping, or Destruction
18 of Motor Vehicles).

19 The department adopted the repeal of §221.48 because it duplicates §217.86 and therefore
20 became redundant and unnecessary with the citation to §217.86 adopted in §221.47.

21 An adopted amendment to §221.49 adds a phrase from the title of the section to the body of this
22 section for clarification.

1 Adopted amendments to §221.50(a) clarify that a sale or transfer of a flood-damaged vehicle must
2 be in accordance with §217.88 of this title, (relating to Sale, Transfer, or Release of Ownership of a Non-
3 repairable or Salvage Motor Vehicle). Adopted amendments to §221.50(b) make wording and format
4 changes without changing the meaning and are necessary to clarify the language. Adopted amendments
5 to §221.50(c) delete duplicative language that is also in §217.88.

6 Adopted amendments to §221.51(a) are necessary to clarify the language and comport with
7 current practice. Adopted amendments to §221.51(c) and (d) remove the phrase “or any other state” to
8 reflect that the department does not have jurisdiction over out-of-state highways. Adopted amendments
9 to §221.51(f) allow flexibility for a salvage vehicle dealer who offers only salvage vehicles for sale to install
10 a conspicuous permanent sign to provide the required notice to consumers under §221.51(a) and (c). An
11 adopted amendment to §221.51(h) rephrases the existing requirement to recognize that a separate
12 salvage pool license endorsement no longer exists in statute as salvage vehicle dealer license
13 endorsements were eliminated by SB 604, 86th Legislature, Regular Session (2019).

14 The adopted amendment to §221.52(a) adds a reference to §217.88 of this title, (relating to Sale,
15 Transfer, or Release of Ownership of a Non-repairable or Salvage Motor Vehicle) and is necessary for
16 completeness. An adopted amendment to §221.52(b) removes duplicate language found in §217.88 of
17 this title, and the remaining subsections are relettered. An adopted amendment to relettered §221.52(b)
18 changes the retention period for a copy of a purchaser’s photo identification from 48 to 36 months for
19 consistency with §217.88. These amendments are necessary to add clarity and for consistency.

20 Adopted amendments to §221.53 reference §217.88 and delete redundant language found in
21 §217.88 to add clarity.

22 Adopted amendments to §221.54 add “vehicle” for consistency in terminology and add two
23 factors the department will consider in determining whether to conduct a site visit: if a business location

1 fails to meet premises or operating requirements, and if records require further investigation by the
2 department. Both factors are indicators of potential fraud and consumer harm and regularly arise in
3 department complaint investigations.

4 At adoption, the department adopted a non-substantive amendment to §§221.42, 221.47, and
5 221.50–221.53 to change the proposed term “non-repairable” to “nonrepairable” for consistency with
6 Occupations Code, Chapter 2302 and Transportation Code, Chapter 501.

7

8 Subchapter D. Records

9 Adopted amendments to §221.71 edit language to remove surplus language and improve
10 grammar and clarity. An adopted amendment to §221.71(c) modernizes the rule by deleting a reference
11 to a requestor being present at the business location and adding an option for records to be provided
12 electronically upon request. An adopted amendment to §221.71(e) increases the deadline from 10 days
13 to 15 days for a salvage vehicle dealer to provide copies of requested records to the department.

14 Adopted amendments to §221.72(b) clarify an existing requirement that a salvage vehicle dealer
15 maintain a record of each vehicle that is dismantled, in addition to each vehicle scrapped or destroyed,
16 and shorten the length of retention of these records from the fourth anniversary of the date the report
17 was acknowledged as received by the department to the third anniversary for consistency with other
18 sections. Lastly, adopted amendments to §221.72(c) add a word and remove a comma for clarity without
19 changing the meaning of the rule.

20 Adopted amendments to §221.73 make wording changes to improve clarity and reflect current
21 practice regarding both vehicle purchase and vehicle sales records. Adopted amendments add references
22 to §221.52 and §217.89 (relating to Rebuilt Salvage Motor Vehicles) and remove redundant language in
23 this section, related to unnecessary descriptors including various types of photo identification. The

1 adopted amendments to §221.73(a) expand the list of records that may be applicable to a particular
2 purchase or sale for clarification and consistency with other rules and because these records are necessary
3 for the department to determine a dealer’s compliance with existing laws and rules.

4 At adoption, the department made a non-substantive amendment to §221.71 and §221.73 to
5 change “non-repairable” to “nonrepairable” for consistency with Occupations Code, Chapter 2302 and
6 Transportation Code, Chapter 501.

7

8 Subchapter E. Administrative Procedures

9 The department adopted the repeal of all sections in Subchapter E. The substance of the rules
10 from Subchapter E are incorporated into adopted new Chapter 224, Adjudicative Practice and Procedure,
11 which is published in this issue of the *Texas Register*. The adopted repeal includes §§221.91–221.96.

12

13 Subchapter F. Administrative Sanctions

14 Adopted amendments to §221.111 delete unnecessary phrases without changing the meaning
15 and update a citation to improve clarity. Additionally, an adopted amendment to §221.111(a)(5) removes
16 the phrase “is unfit, ineligible for license” and an adopted amendment to §221.111(a)(6) removes the
17 phrase “is unfit to hold the license, is ineligible for licensure” from the factors the department considers
18 to determine denial of licensure because that language is not found in Occupations Code, Chapter 2302.

19 Adopted amendments to §221.112 delete unnecessary phrases without changing the meaning,
20 add statutory and rule references and explanatory language, remove surplus language associated with
21 those references, and renumber accordingly. These amendments are necessary to add clarity.

22 Adopted amendments to §221.115 remove the language stating that the department will not
23 refund license fees in the case of a licensure denial, suspension, or revocation and substitute language

1 that allows a refund with director approval unless a license application is withdrawn, denied, suspended,
2 or revoked, or the license applicant or license holder is subject to an unpaid civil penalty imposed by a
3 final order against the license applicant or license holder. This provision ensures that the department
4 receives as much as possible of the assessed civil penalties, but also gives the department flexibility to
5 refund an application fee in other circumstances. These adopted amendments are consistent with the
6 refund process for other license types.

7 **SUMMARY OF COMMENTS.**

8 The department received one written comment on the proposal from the Texas Independent
9 Automobile Dealers Association (TIADA) with recommendations for changes to §221.19 and §221.111.

10 **Comment:** TIADA recommended that in §221.19, a salvage vehicle dealer not be required to pay a \$25
11 license amendment fee to update a business email address, telephone number, mailing address or change
12 in license contact.

13 **Response.** The department agrees that salvage vehicle dealers should not incur a \$25 amendment fee for
14 changes that do not involve department processing time or expense. The department therefore added
15 the following clarifying language to §221.13(c) at adoption to identify the specific types of license
16 amendments to which the fee applies: “and applies to a license amendment changing a license holder’s
17 name, changing ownership or management, or when adding a new business address and assumed name.”

18 With this revision at adoption, while a salvage vehicle dealer must submit a license amendment to report
19 a change in business email address, telephone number, mailing address or license contact, the dealer will
20 only incur a \$25 amendment fee for a change in business name, a change in ownership or management,
21 or when adding a new business address and assumed name. This latter group of changes requires
22 department processing time and expense and are consistent with when GDN dealers are charged an
23 amendment fee.

1 **Comment:** TIADA recommended that the department amend §221.111 or add a new rule to describe the
2 department’s use of a licensing committee in reviewing applications, including the composition of the
3 committee and deadlines for the committee’s review and decision-making.

4 **Response.** The department disagrees. The Motor Vehicle Division’s licensing committee is an internal
5 management review process to help ensure consistency in application processing and does not place a
6 new requirement on a license holder or affect a license holder’s rights under Occupations Code, Chapter
7 2302. Therefore, a rule is not required under Government Code, Chapter 2001. The department does not
8 want to place limitations on the composition of the committee or on the timelines for its decision-making
9 to allow the department necessary flexibility to staff the committee and determine the length of its review
10 as necessitated by the details and complexity of each specific application.

11

12

221.SUBCHAPTER A. GENERAL PROVISIONS

13

43 TAC §221.1 and §221.2

14

STATUTORY AUTHORITY.

15

The department adopts amendments to Chapter 221 under Government Code, §411.122(d)(24),
16 which authorizes department access to criminal history record information maintained by DPS;
17 Government Code, §411.12511, which authorizes the department to obtain criminal history record
18 information from DPS and the FBI for license applicants, license holders, and representatives whose act
19 or omission would be cause for denying, revoking, or suspending a license issued under Occupations Code,
20 Chapter 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to
21 administer Occupations Code, Chapter 2302; Occupations Code, §2302.052, which assigns the board a
22 duty to set reasonable and necessary application fees, license fees, renewal fees, and other fees as
23 required to implement Chapter 2302; Occupations Code, §2302.103, which requires a salvage vehicle

1 dealer to apply for a license on a form prescribed by the department and pay an application fee;
2 Occupations Code, §2302.104, which prescribes content that must be included in an application;
3 Occupations Code, §2302.105, which requires the department to complete an investigation of the
4 applicant’s qualifications before issuing a license; Occupations Code, §2302.108, which authorizes the
5 department to deny, suspend, revoke, or reinstate a license issued under Chapter 2302 consistent with
6 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 adopts amendments 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 to take
11 any action that is necessary or convenient to exercise that authority; Transportation Code, §§501.0041,
12 502.0021, and 503.002; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to
13 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 Occupations Code, §55.002 requires a state agency that issues a license to adopt rules to exempt
19 an individual license holder from incurring any increased fee or other penalty for failing to renew the
20 license in a timely manner if the individual establishes that failure to timely renew the license is because
21 the individual was serving as a military service member. Occupations Code, §55.004 requires a state
22 agency that issues a license to adopt rules for the issuance of the license to an applicant who is a military
23 service member, military veteran, or military spouse and holds a current license issued by another

1 jurisdiction with substantially equivalent requirements or held a Texas license within the prior five years.
2 Occupations Code, §55.0041 requires a state agency that issues a license to adopt rules to recognize
3 equivalent out-of-state licenses for a military service member, military veteran, or military spouse within
4 30 days of application and issue a license or authorization. Occupations Code, §55.005 requires a state
5 agency that issues a license to process an application and issue a license within 30 days for a military
6 service member, military veteran, or military spouse.

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

12 **CROSS REFERENCE TO STATUTE.** These rule adoptions implement Government Code, Chapters
13 411 and 2001; Occupations Code, Chapters 53, 55, 2301, and 2302; and Transportation Code, Chapters
14 501–503, 1001–1003, and 1005.

15
16 Text.

17 §221.1. Purpose and Scope.

18 Transportation Code, §1001.002, provides that the department shall administer and enforce
19 Occupations Code, Chapter 2302. Chapter 2302 provides that a person may not act as a salvage vehicle
20 dealer, unless the department issues that person a salvage vehicle dealer license, or an independent motor
21 vehicle dealer's general distinguishing number issued under Chapter 503, Transportation Code, or a person
22 is exempt from licensure under Occupations Code, Chapter 2302. This chapter describes the procedures
23 by which a person obtains a salvage vehicle dealer license and the rules governing how a license holder or

1 an independent motor vehicle dealer with authority to operate as a salvage vehicle dealer, must operate,
2 and the procedures by which the department will administer and enforce Occupations Code, Chapter
3 2302, and this chapter.

4

5 §221.2. Definitions.

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

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

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

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

11 (4) Day--Means a calendar day unless otherwise stated.

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

13 (6) Director--Means the division director that regulates the distribution and sales of motor
14 vehicles, including any department staff to whom the director delegates any duty assigned under this
15 chapter.

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

17 (8) License holder--A person that holds a salvage vehicle dealer license or an independent
18 motor vehicle dealer GDN that authorizes the dealer to operate as a salvage vehicle dealer.

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

20 (10) Nonrepairable motor vehicle--As defined by Transportation Code, §501.091.

- 1 (11) Nonrepairable record of title--As defined by Transportation Code, §501.091.
- 2 (12) Nonrepairable vehicle title--As defined by Transportation Code, §501.091.
- 3 (13) Out-of-state buyer--As defined by Transportation Code, §501.091.
- 4 (14) Out-of-state ownership document--As defined by Transportation Code, §501.091.
- 5 (15) Person--As defined by Occupations Code, §2301.002.
- 6 (16) Public highway--As defined by Transportation Code, §502.001.
- 7 (17) Retail sale--As defined by Occupations Code, §2301.002.
- 8 (18) Salvage motor vehicle--As defined by Transportation Code, §501.091.
- 9 (19) Salvage record of title--As defined by Transportation Code, §501.091.
- 10 (20) Salvage vehicle dealer--As defined by Transportation Code, §501.091.
- 11 (21) Salvage vehicle title--As defined by Transportation Code, §501.091.
- 12 (22) Used part--As defined by Transportation Code, §501.091.

13

14

SUBCHAPTER B. LICENSING

15

43 TAC §§221.11–221.20

16

STATUTORY AUTHORITY. The department adopts amendments to Chapter 221 under Government Code, §411.122(d)(24), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a license issued under

20

1 Occupations Code, Chapter 2302; Occupations Code, §2302.051, which authorizes the board to adopt
2 rules as necessary to administer Occupations Code, Chapter 2302; Occupations Code, §2302.052, which
3 assigns the board a duty to set reasonable and necessary application fees, license fees, renewal fees, and
4 other fees as required to implement Chapter 2302; Occupations Code, §2302.103, which requires a
5 salvage vehicle dealer to apply for a license on a form prescribed by the department and pay an application
6 fee; Occupations Code, §2302.104, which prescribes content that must be included in an application;
7 Occupations Code, §2302.105, which requires the department to complete an investigation of the
8 applicant’s qualifications before issuing a license; Occupations Code, §2302.108, which authorizes the
9 department to deny, suspend, revoke, or reinstate a license issued under Chapter 2302 consistent with
10 the requirements of Government Code, Chapter 2001; and Transportation Code, §1002.001, which
11 authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the
12 duties of the department.

13 The department also adopts amendments and under the authority of Transportation Code,
14 §§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, and 2001.039, and 2001.054, in
15 addition to the statutory authority referenced throughout this preamble.

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

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

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

3 **CROSS REFERENCE TO STATUTE.** These rule adoptions implement Government Code, Chapters 411 and
4 2001; Occupations Code, Chapters 53, 55, 2301 and 2302; and Transportation Code, Chapters 501–503,
5 1001–1003, and 1005.

6
7 Text.

8 §221.11. License Required.

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

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

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

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

18 (c) The provisions of this subchapter do not apply to a person exempt from licensure under
19 Occupations Code, Chapter 2302.

20
21 §221.13. License Terms and Fees.

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

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

7 (c) The fee for a license amendment is \$25 and applies to a license amendment changing a license
8 holder's name, changing ownership or management, or when adding a new business address and assumed
9 name.

10

11 §221.14. License Applications Generally.

12 (a) A salvage vehicle dealer license may be issued for multiple locations within a single county. A
13 separate license and fee is required for a business location in another county.

14 (b) An application for a new license, license amendment, or license renewal filed with the
15 department must be:

16 (1) on a form prescribed by the department;

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

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

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

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

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

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

12

13 §221.15. Required License Application Information.

14 (a) An applicant for a new salvage dealer license must register for an account in the department-
15 designated licensing system by selecting the licensing system icon on the dealer page of the department
16 website. An applicant must designate the account administrator and provide the name and email address
17 for that person, and provide the business telephone number, name, business type, and social security
18 number or employer identification number, as applicable. The applicant's licensing account administrator
19 must be an owner, officer, manager, or bona fide employee.

20 (b) Once registered, an applicant for a new salvage dealer license may apply for a license and must
21 provide the following:

- 1 (1) the application reason;
- 2 (2) business information including:
 - 3 (A) the name, provided that the applicant may not use a name or assumed name
 - 4 under which the applicant is authorized to do business that may be confused with or is similar to that of a
 - 5 governmental entity or that is otherwise deceptive or misleading to the public;
 - 6 (B) mailing address;
 - 7 (C) the full business physical address, including number, street, municipality,
 - 8 county, and zip code for each location where the applicant will conduct business in the same county;
 - 9 (D) business email;
 - 10 (E) telephone number;
 - 11 (F) Texas Sales Tax Identification Number;
 - 12 (G) National Motor Vehicle Title Information System (NMVTIS) Identification
 - 13 Number;
 - 14 (H) Secretary of State file number, if applicable; and
 - 15 (I) website address, if applicable.
- 16 (3) application contact name, email address, and telephone number;
- 17 (4) the name, social security number, date of birth, identity document information, and
- 18 ownership percentage for each owner, partner, member, beneficiary, or principal if the applicant is not a
- 19 publicly traded company;

1 (5) the name, social security number, date of birth, and identity document information for
2 each officer, director, manager, trustee, or other representative authorized to act on behalf of the applicant
3 if the applicant is owned in full or in part by a legal entity;

4 (6) the name, employer identification number, ownership percentage, and non-profit or
5 publicly-traded status for each legal entity that owns the applicant in full or in part;

6 (7) the name, social security number, date of birth, and identity document information of
7 at least one manager or other bona fide employee who will be present at the business location if the
8 license holder is out of state or will not be present during business hours at the business location in Texas;

9 (8) criminal history record information under the laws of Texas, another state of the United
10 States, the United States, and any foreign jurisdiction for each person listed in the application, including
11 offense description, date, and location;

12 (9) military service status;

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

20 (11) information about each business location and business premises to demonstrate
21 compliance with related rules in this chapter;

1 (12) signed Certification of Responsibility, which is a form provided by the department;

2 and

3 (13) any other information required by the department to evaluate the application under
4 current law and board rules.

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

7

8 §221.16. Required Attachments to the License Application.

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

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

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

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

16 (A) driver's license;

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

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

- 1 (D) United States or foreign passport; or
- 2 (E) United States military identification card;
- 3 (4) documents proving business premises ownership, or a fully executed lease or sublease
4 agreement for the license period;
- 5 (5) business premises photos and a notarized affidavit certifying that all premises
6 requirements in Subchapter C of the chapter are met and will be maintained during the license period;
- 7 (6) Texas Use and Sales Tax Permit;
- 8 (7) Franchise Tax Account Status issued by the Comptroller's Office; and
- 9 (8) any other documents required by the department to evaluate the application under
10 current law and board rules.

11

12 §221.17. License Processing for Military Service Members, Spouses, and Veterans.

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

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

20 (1) A military service member or military spouse must submit to the department:

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

3 (B) proof of the military service member being stationed in Texas and a copy of
4 the military service member or military spouse's military identification card; and

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

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

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

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

14 (3) If the department confirms that a military service member or military spouse is
15 currently licensed in good standing in another jurisdiction with substantially equivalent licensing
16 requirements, the department shall issue a license to the military service member or military spouse for
17 the relevant business or occupation within 30 days. The license is subject to the requirements of this
18 chapter and Occupations Code, Chapter 2302 in the same manner as a license issued under the standard
19 application process, unless exempted or modified under Occupations Code, Chapter 55.

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

22

23 §221.18. Additional, New, or Closed Location.

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

3 (1) notify the department no later than 10 days before opening the additional location by
4 electronically submitting a license amendment application in the department-designated licensing system;

5 (2) acknowledge that the additional location is and will remain in compliance with all
6 ordinances and rules of the municipality or county for the additional location and board rules; and

7 (3) obtain approval from the department before conducting business at the additional
8 location.

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

11 (1) notify the department no later than 10 days before opening the new location by
12 electronically submitting a license amendment application in the department-designated licensing system
13 to add a new location and remove the existing location from the department's records;

14 (2) acknowledge that the new location is and will remain in compliance with all ordinances
15 and rules of the municipality or county for the new location and board rules; and

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

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

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

3

4 §221.19. Notice of Change in License Holder Information.

5 (a) A license holder shall notify the department by electronically submitting a license amendment
6 application in the department-designated licensing system to amend its license within 30 days of a change
7 in the license holder's business name or assumed name. Upon submission of an amendment to change
8 the business name or assumed name, the department shall reflect the new business name in the
9 department's records. The dealer shall retain the same salvage vehicle dealer license number except if the
10 business name change is the result of a change in the type of entity being licensed, such as a sole
11 proprietorship becoming a corporation, or if the ownership of the business changes as discussed in
12 subsection (b) of this section.

13 (b) A salvage vehicle dealer shall notify the department by electronically submitting a license
14 amendment application in the department-designated licensing system within 30 days of a change to:

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

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

19 (3) an ownership, organizational, managerial, or other business arrangement that would
20 allow the power to direct or cause the direction of the management and policies and activities of an

1 applicant or license holder, whether directly or indirectly, to be established in or with a person not
2 described in paragraph (1) or (2) of this subsection; or

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

5 (c) The license holder must submit to the department all information required by the department
6 to evaluate the license amendment application under current law and rules.

7

8 §221.20. License Renewal.

9 (a) A salvage vehicle dealer license expires on the second anniversary of the date the license was
10 issued.

11 (b) A salvage vehicle dealer license may be renewed for an additional period of two years upon
12 timely submission of a renewal application on a form prescribed by the department with all required
13 information, attachments, and fees. A renewal application is considered "timely" submitted if the renewal
14 application with all required information, attachments, and required fees is received by the department
15 on or before the expiration date of the existing license.

16 (c) The department will send a written notice of expiration to a license holder's email address at
17 least 31 days before expiration of a license.

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

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

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

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

7 (h) If a license has been expired for one year or longer and the department has not received a
8 renewal application, the department will close the license, and the license holder must apply for a new
9 license.

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

13 (j) If the department does not receive a timely renewal application with all required information
14 and attachments and the applicable renewal fee on or before the license expiration date, a salvage vehicle
15 dealer may not engage in the activities that require the license until the license has been renewed by the
16 department.

17

18 **SUBCHAPTER C. LICENSED OPERATIONS**

19 **43 TAC §§221.41–221.48 and 221.49–221.54**

20 **STATUTORY AUTHORITY.** The department adopts amendments and repeals to Chapter 221 under
21 §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code,
22 Chapter 2302; Occupations Code, §2302.108, which authorizes the department to deny, suspend, revoke,

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

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

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

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

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

21
22 Text.
23 §221.41. Location Requirements.

1 A salvage vehicle dealer must meet and maintain the following requirements at each licensed
2 business location during the term of the license.

3 (1) If the licensed business location is not owned by the license holder, the license
4 holder must maintain a lease that is continuous during the period of time for which the license will
5 be issued. The lease agreement must be on a properly executed form containing at a minimum:

6 (A) the name of the property owner as the lessor of the premises and the
7 name of the dealer as the tenant or lessee of the premises;

8 (B) the period of time for which the lease is valid;

9 (C) the street address or legal description of the property, provided that if
10 only a legal description of the property is provided, the license holder must attach a statement
11 verifying that the property description in the lease agreement is the physical street address
12 identified on the application;

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

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

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

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

1 (2) Any business location requirements in this subchapter are in addition to any
2 requirements under municipal ordinance, county rule, or state law.

3

4 §221.42. Operations Only at Licensed Business Location.

5 A salvage vehicle dealer may not sell or offer to sell a salvage motor vehicle or nonrepairable
6 motor vehicle from any location other than a licensed business location.

7

8 §221.43. Business Hours.

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

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

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

1 (d) Regardless of the license holder's business hours, the license holder's telephone must be
2 answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service,
3 voicemail service, or answering machine.

4

5 §221.44. Business Sign Requirements.

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

10 (b) A business sign must be permanently mounted at each physical business address listed on the
11 license. A business sign is considered permanently mounted if bolted to an exterior building wall or bolted
12 or welded to a dedicated sign pole or sign support permanently installed in the ground.

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

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

19

20 §221.45. Business Office.

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

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

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

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

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

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

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

14

15 §221.46. Display of License.

16 At each licensed business location, a license holder must continuously display the license issued
17 by the department in a conspicuous manner that makes the license easily readable by the public.

18

19 §221.47. Evidence of Ownership.

1 A salvage vehicle dealer must receive a properly assigned salvage vehicle title, salvage record of
2 title, nonrepairable vehicle title, nonrepairable record of title, or out-of-state ownership document, as
3 applicable, when acquiring a nonrepairable motor vehicle or salvage motor vehicle in accordance with
4 §217.86 of this title (relating to Dismantling, Scrapping, or Destruction of Motor Vehicles).

5

6 §221.49. Unique Inventory Number.

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

10

11 §221.50. Restrictions on Sales of Flood Damaged Vehicles.

12 (a) A motor vehicle that is a nonrepairable motor vehicle or salvage motor vehicle based solely
13 on flood damage may be sold or transferred only as provided by this section and §217.88 of this title
14 (relating to Sale, Transfer, or Release of Ownership of a Nonrepairable or Salvage Motor Vehicle).

15 (b) A salvage vehicle dealer may sell, transfer, or release a nonrepairable motor vehicle or salvage
16 motor vehicle if the salvage vehicle dealer provides a written disclosure that the vehicle has been classified
17 as a nonrepairable motor vehicle or salvage motor vehicle based solely on flood damage.

18

19 §221.51. Duty to Identify Motor Vehicles Offered for Sale.

1 (a) A salvage vehicle dealer shall place a notice on each salvage motor vehicle it displays or offers
2 for sale that:

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

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

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

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

19 (c) A salvage vehicle dealer shall place a sign on each nonrepairable motor vehicle it displays or
20 offers for sale that:

21 (1) is visible from outside of the nonrepairable motor vehicle;

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

2 (3) states as follows: *"This is a nonrepairable titled motor vehicle that can never be*
3 *operated on a public highway of this state."*

4 (d) Upon the sale of a nonrepairable motor vehicle, a salvage vehicle dealer shall obtain the
5 purchaser's signature to a disclosure statement written in eleven point or larger font that states as follows:
6 *"I, (name of purchaser), acknowledge that at the time of purchase, I am aware that the vehicle is a*
7 *nonrepairable vehicle; this vehicle will never be able to operate on a public highway of this state and will*
8 *never be registered to operate on a public highway of this state; and, before selling this nonrepairable*
9 *vehicle I must have the nonrepairable vehicle titled in my name."*

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

12 (f) The notice requirements of subsections (a) and (c) can be met if the salvage vehicle dealer
13 conspicuously displays a permanent sign that all of the vehicles being offered for sale by the salvage vehicle
14 dealer are salvage motor vehicles or non-repairable motor vehicles.

15 (g) If the salvage vehicle dealer conducts a sale of a salvage motor vehicle or a nonrepairable
16 motor vehicle in Spanish or other foreign language, the notices and disclosures required by this section
17 shall be in that language.

18 (h) This section does not apply to a vehicle that is displayed or offered for sale by a salvage vehicle
19 dealer who operates solely as a salvage pool operator and only sells vehicles at wholesale.

20

21 §221.52. Export-only Sales.

1 (a) A license holder may sell a nonrepairable motor vehicle or a salvage motor vehicle to a person
2 who resides in a jurisdiction outside the United States only as provided by Transportation Code, §501.099
3 and §217.88 of this title (relating to Sale, Transfer, or Release of Ownership of a Nonrepairable or Salvage
4 Motor Vehicle).

5 (b) A legible copy of the purchaser's photo identification document must be maintained in the
6 records of the license holder for a period of 36 months after the sale of a salvage motor vehicle or a
7 nonrepairable motor vehicle for "export-only."

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

12

13 §221.53. Casual Sales.

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

16 (b) A license holder must maintain records of each casual sale made in accordance with §217.88
17 of this title (relating to Sale, Transfer, or Release of Ownership of a Nonrepairable or Salvage Motor
18 Vehicle).

19 (c) A person who purchases a salvage motor vehicle or a nonrepairable motor vehicle through a
20 casual sale may not sell that salvage motor vehicle or nonrepairable motor vehicle until the salvage

1 vehicle title, salvage record or title, nonrepairable vehicle title or nonrepairable record of title, as
2 applicable, is in the person's name.

3

4 §221.54. Criteria for Site Visits.

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

7 (1) failed to respond to a records request;

8 (2) failed to operate from the license location;

9 (3) an enforcement history that reveals failed compliance inspections or multiple
10 complaints with administrative sanctions being taken by the department;

11 (4) a business location that fails to meet premises or operating requirements under this
12 chapter; or

13 (5) records that require further investigation by the department.

14

15

16

SUBCHAPTER D. RECORDS

17

43 TAC §§221.71–221.73

18 **STATUTORY AUTHORITY.** The department adopts amendments to Chapter 221 under §2302.051, which
19 authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302;
20 Occupations Code, §2302.108, which authorizes the department to deny, suspend, revoke, or reinstate a
21 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 adopts amendments and under the authority of Occupations Code,
4 §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles
5 and the authority to take any action that is necessary or convenient to exercise that authority;
6 Transportation Code, §§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, and
7 2001.039, and 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
13 and 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
23 §221.71. Records; Generally.

1 (a) A salvage vehicle dealer shall maintain a record of each salvage motor vehicle and
2 nonrepairable 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 of the department.

7 (d) A salvage vehicle dealer must make records available for review and copying upon request by
8 the department. The department may request records in person, by mail, or electronically from a
9 department email or a department-designated system.

10 (e) A salvage vehicle dealer must provide copies of requested records to the department within
11 15 days of receipt of the request.

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

15

16 §221.72. Record Retention.

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

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

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

12

13 §221.73. Content of Records.

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

15 (1) the date the license holder purchased the salvage motor vehicle, or nonrepairable
16 motor vehicle;

17 (2) the name and address of the person who sold the salvage motor vehicle or
18 nonrepairable motor vehicle to the salvage vehicle dealer;

19 (3) if the person is not an insurance company or a license holder, a photocopy of the photo
20 identification document of the person who purchased the salvage motor vehicle or nonrepairable motor

1 vehicle from the salvage vehicle dealer or sold the salvage motor vehicle or nonrepairable motor vehicle
2 to the salvage vehicle dealer;

3 (4) a description of the salvage motor vehicle or nonrepairable motor vehicle, including
4 the model, year, make, and vehicle identification number, if applicable;

5 (5) the ownership document number and state of issuance of the salvage motor vehicle
6 or nonrepairable motor vehicle ownership document, if applicable;

7 (6) a copy of the salvage record of title or nonrepairable record of title, if applicable, or a
8 copy of the front and back of the ownership document for the salvage motor vehicle or nonrepairable
9 motor vehicle;

10 (7) a copy of the form if the ownership document has been surrendered to the
11 department;

12 (8) any evidence indicating that the motor vehicle was dismantled, scrapped, or
13 destroyed;

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

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

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

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

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

1 (b) If the salvage motor vehicle has been rebuilt, repaired, or reconstructed by the salvage vehicle
2 dealer the salvage vehicle dealer's records must also include a form prescribed by the department in
3 accordance with §217.89 of this title (relating to Rebuilt Salvage Motor Vehicles).

4

5

SUBCHAPTER E. ADMINISTRATIVE PROCEDURES

6

43 TAC §§221.91–221.96

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

13 The department also adopts repeals under the authority of Occupations Code, §2301.151, which
14 gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority
15 to take any action that is necessary or convenient to exercise that authority; Transportation Code,
16 §§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, 2001.054, and 2001.039 in
17 addition to the statutory authority referenced throughout this preamble.

18 Transportation Code, §501.0041 authorizes the department to adopt rules to administer
19 Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt
20 rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the
21 department to adopt rules to administer Transportation Code, Chapter 503.

22 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature
23 and requirements of all available formal and informal procedures. Government Code, §2001.039 requires

1 state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.
2 Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation,
3 suspension, annulment, or withdrawal of a license.

4 **CROSS REFERENCE TO STATUTE.** These repeals would implement Government Code, Chapter 2001;
5 Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501–503, 1001–1003,
6 and 1005.

7

8 **SUBCHAPTER F. ADMINISTRATIVE SANCTIONS**

9 **43 TAC §§221.111–221.115**

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

1 the requirements of Government Code, Chapter 2001; and Transportation Code, §1002.001, which
2 authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the
3 duties of the department.

4 The department also adopts amendments and under the authority of Occupations Code,
5 §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles
6 and the authority to take any action that is necessary or convenient to exercise that authority;
7 Transportation Code, §§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, and
8 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.
9 Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation
10 Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to
11 administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the department
12 to adopt rules to administer Transportation Code, Chapter 503.

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

18 **CROSS REFERENCE TO STATUTE.** These rule adoptions would implement Government Code, Chapters 411
19 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501–503,
20 1001–1003, and 1005.

21
22 Text.

23 §221.111. Denial of License.

1 (a) The department may deny an application for a new license or an application for a
2 license renewal under Occupations Code Chapter 53 or Chapter 2302, and §211.3 of this title
3 (relating to Criminal Offense Guidelines) or this chapter, if:

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

5 (2) the applicant or any owner, officer, director, or other person described in
6 §211.2 of this title (relating to Application of Subchapter) made a false statement, material
7 misrepresentation, or a material omission, on the application to issue, renew, or amend a license;

8 (3) the applicant, or any owner, officer, director, or other person described in
9 §211.2 of this title, has been convicted, or considered convicted under Occupations Code
10 §53.021(d), by any local, state, federal, or foreign authority, of an offense that directly relates to
11 the duties or responsibilities of the licensed occupation as described in §211.3 of this title or is
12 convicted of an offense that is independently disqualifying under Occupations Code §53.021;

13 (4) the applicant's or any owner's, officer's, director's, or other person described in
14 §211.2 of this title, previous license was revoked;

15 (5) the applicant has an ownership, organizational, managerial, or other business
16 arrangement that would allow a person the power to direct, management, policies, or activities, of
17 the applicant or license holder, whether directly or indirectly, who has been subject to disciplinary
18 action, including suspension, revocation, denial, corrective action, cease and desist order, or
19 assessment of a civil penalty, administrative fine, or similar assessment for a current or previous
20 license, permit, or other authorization issued by any local, state, or federal regulatory authority; or

21 (6) the applicant, or any owner, officer, or director, or other person described in
22 §211.2 of this title whose current or previous license, permit, or other authorization issued by any
23 local, state, or federal regulatory authority has been subject to disciplinary action, including

1 suspension, revocation, denial, corrective action, cease and desist order, or assessment of a civil
2 penalty, administrative fine, fee, or similar assessment.

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

6 (c) In accordance with Occupations Code §2302.108, the department shall reject any
7 application for issuance of a new license under Occupations Code Chapter 2302 filed by a person
8 whose license is revoked before the first anniversary of the date of revocation.

9
10 §221.112. Suspension, Revocation and Administrative Penalties.

11 The department may suspend or revoke a license or impose an administrative penalty if the
12 license holder:

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

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

16 (3) willfully defrauds a purchaser;

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

20 (5) refuses or fails to comply with a request by the department to examine, during
21 normal business hours, the license holder's records as required by Occupations Code, Chapter 2302, or
22 this chapter;

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

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

4 (8) fails to notify the department of a change of the salvage vehicle dealer's license
5 holder information as required under §221.19 of this title (relating to Notice of Change in License Holder
6 Information);

7 (9) fails to notify the department of a change in location prior to operating in a new
8 location or closing a location in accordance with §221.18 of this title (relating to Additional, New, or
9 Closed Location);

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

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

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

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

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

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

3 (16) is, or any owner, officer, director, or other person described in §211.2 of this title
4 (relating to Application of Subchapter), is convicted, or considered convicted under Occupations Code
5 §53.021(d), by any local, state, federal, or foreign authority, of an offense that directly relates to the
6 duties or responsibilities of the licensed occupation as described in §211.3 of this title (relating to
7 Criminal Offense Guidelines) or an offense that is independently disqualifying under Occupations Code
8 §53.021 after initial issuance or renewal of the salvage vehicle dealer license, or that has not been
9 reported to the department as required;

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

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

14 (19) engages in business without a license required under Occupations Code Chapters
15 2301 or 2302, or Transportation Code Chapter 503;

16 (20) operates a salvage motor vehicle or a nonrepairable motor vehicle on public
17 highways or allows another person to operate a salvage motor vehicle or a nonrepairable motor vehicle
18 on public highways; or

19 (21) deals in used automotive parts as more than an incidental part of the salvage
20 vehicle dealer's primary business.

21

1 §221.115. Refund of Fees.

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

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

5 (2) the license applicant or license holder is subject to an unpaid civil penalty imposed
6 against the license applicant or license holder by a final order.

7