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PROPOSAL OF REVISIONS TO

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §218.2

SUBCHAPTER B. MOTOR CARRIER REGISTRATION

43 TAC §§218.10, 218.11, 218.13, 218.14, 218.16, AND 218.18

SUBCHAPTER C. RECORDS AND INSPECTIONS

43 TAC §218.31 AND §218.32

SUBCHAPTER D. MOTOR TRANSPORTATION BROKERS

43 TAC §218.41

SUBCHAPTER E. CONSUMER PROTECTION

43 TAC §§218.53, 218.54, 218.56, 218.57, 218.61, 218.62, 218.64, AND 218.65

SUBCHAPTER F. ADMINISTRATIVE PENALTIES AND SANCTIONS

43 TAC §218.72

SUBCHAPTER G. FINANCIAL RESPONSIBILITY FOR FOREIGN COMMERCIAL MOTOR VEHICLES

43 TAC §218.80 AND §218.82

REPEAL OF

SUBCHAPTER E. CONSUMER PROTECTION

43 TAC §218.58

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes to amend sections in 43 Texas Administrative Code (TAC) Subchapter A, General Provisions, §218.2; Subchapter B, Motor Carrier Registration, 43 TAC §§218.10, 218.11, 218.13, 218.14, 218.16, and 218.18; Subchapter C, Records

1 and Inspections, 43 TAC §218.31 and §218.32; Subchapter D, Motor Transportation Brokers, 43 TAC
2 §218.41; Subchapter E, Consumer Protection, 43 TAC §§218.53, 218.54, 218.56, 218.57, 218.61, 218.62,
3 218.64, and 218.65; Subchapter F, Administrative Penalties and Sanctions, 43 TAC §218.72; and
4 Subchapter G, Financial Responsibility for Foreign Commercial Motor Vehicles, 43 TAC §218.80 and
5 §218.82. These amendments are necessary to require the applicants for operating authority under
6 Chapter 218 and Transportation Code, Chapter 643 to provide the department with more information and
7 documents, so the department can detect and prevent chameleon carriers; make the rules consistent
8 with the department’s current processes; make the rules consistent with current law (both Texas law and
9 applicable federal law) by amending or deleting rule text; delete language for which the department does
10 not have rulemaking authority; clarify language; delete unnecessary language; and otherwise clean up the
11 rule text. In conjunction with this proposal, the department is proposing the repeal of §218.58, concerning
12 options for household goods carrier limitation of liability in the moving services contract, which is also
13 published in this issue of the *Texas Register*.

14 **EXPLANATION.**

15 Subchapter A. General Provisions.

16 A proposed amendment to §218.2 would add a new subsection (a) and create a new subsection
17 (b) for the defined terms. Proposed new subsection (a) would add language stating that the definitions
18 contained in Transportation Code, Chapter 643 apply to Chapter 218 and that the definitions contained
19 in Chapter 643 govern in the event of a conflict with Chapter 218, except for the definition of the word
20 “director” in §218.2. To the extent that the terms used in Chapter 218 are already defined in
21 Transportation Code, Chapter 643, there is no need to duplicate the definitions in Chapter 218. As a result,
22 proposed amendments to §218.2 would delete the following definitions because the terms are already

1 defined in Transportation Code, Chapter 643: “commercial school bus,” which is defined in Transportation
2 Code, §643.1015; “department”; “household goods”; and “insurer.”

3 However, the definition for the word “director” presents an exception: Transportation Code,
4 §643.001(2) defines “director” as the executive director of the department or an employee of the
5 department who is a division or special office director or holds a higher rank and is designated by the
6 director, but the department’s executive director designated the director of the department’s Motor
7 Carrier Division to perform the functions of the director under Chapter 218 and Transportation Code,
8 Chapter 643. Therefore, a separate definition for “director” is necessary in §218.2. A proposed
9 amendment to the word “director” would clarify that the department’s executive director designated the
10 director of the Motor Carrier Division as the director under Transportation Code, §643.001(2).

11 A proposed amendment to the definition for “advertisement” in proposed §218.2(b)(1) would
12 replace the word “on-line” with the word “online” to be consistent with current terminology. A proposed
13 amendment to the definition for “binding proposal” in proposed §218.2(b)(3) would delete the word
14 “formal” because the word is not clear and is not necessary for the definition. Proposed amendments to
15 the definition for “commercial motor vehicle” in proposed §218.2(b)(8) would incorporate the definition
16 of the term in Transportation Code, §548.001 and would delete the current definition, including the
17 language regarding a commercial enterprise. This proposed amendment is necessary to align with statute:
18 neither Transportation Code, §548.001 nor Transportation Code, §643.051(a) define a commercial motor
19 vehicle to require the vehicle to be used in furtherance of a commercial enterprise. Only Transportation
20 Code, §643.051(b) refers to compensation; however, that requirement only applies to household goods
21 carriers that transport household goods, regardless of the size of the vehicle. Transportation Code,
22 §643.051(a) states that the term “commercial motor vehicle” is defined in Transportation Code, §548.001.

1 Proposed amendments to the definition for “commercial motor vehicle” in proposed §218.2(b)(8)
2 would also delete the letter for subparagraph (B) due to the proposed deletion of subparagraph (A), add
3 language to create a full sentence regarding the exclusions from the definition for “commercial motor
4 vehicle,” and replace existing clause numbers (i) through (vi) with subparagraph letters (A) through (F) to
5 provide the correct rule structure under 1 TAC §91.33. In addition, a proposed amendment to the
6 definition for “commercial motor vehicle” in proposed §218.2(b)(8)(A) would change the word “and” to
7 “or” regarding a farm vehicle to be consistent with Transportation Code, §548.001. Although a proposed
8 amendment to the definition for “commercial motor vehicle” in proposed §218.2(b)(8) would refer to the
9 definition found in Transportation Code, §548.001, it is helpful to clarify the language regarding a farm
10 vehicle because the language in §548.001 has caused confusion in the past. A proposed amendment to
11 the definition for “commercial motor vehicle” in proposed §218.2(b)(8)(B) would reword the exception to
12 apply to a single cotton vehicle to be consistent with Transportation Code, §643.002(2) and proposed
13 §218.2(b)(8), which contain the exemptions from Transportation Code, Chapter 643. A proposed
14 amendment to the definition for “commercial motor vehicle” in proposed §218.2(b)(8)(F) would delete
15 language that requires a tow truck to be permitted under Occupations Code, Chapter 2308, Subchapter C
16 to be consistent with the language in Transportation Code, §643.002(7) regarding exemptions from
17 Transportation Code, Chapter 643.

18 A proposed amendment to the definition for the word “conversion” in proposed §218.2(b)(10)
19 would delete the word “and” in the title to the Business Organizations Code because the word “and” does
20 not appear in the name of this code. A proposed amendment to current §218.2(14) would delete the
21 definition for the word “division” because the definition is not necessary. A proposed amendment to
22 §218.14 would change the word “division’s” to “Motor Carrier Division’s,” so the word “division” would
23 not be used in Chapter 218, except for references that indicate a particular division. These amendments

1 provide clarity because Chapter 218 contains references to the department’s Motor Carrier Division and
2 the department’s Enforcement Division.

3 Proposed amendments to the definition for “farmer” and “farm vehicle” in proposed
4 §218.2(b)(13) and (14) would make the definitions consistent with the definitions in 49 C.F.R. §390.5T
5 because Transportation Code, §548.001 says the term “farm vehicle” has the meaning assigned by the
6 federal motor carrier safety regulations assigned by Transportation Code, §644.001. The term “farm
7 vehicle” appears in the definition of “commercial motor vehicle,” and Transportation Code, §643.051(a)
8 says that the term “commercial motor vehicle” is defined in Transportation Code, §548.001. For this
9 reason, the term “farm vehicle,” which is found and defined in Transportation Code, §548.001, appears
10 in the definition for “commercial motor vehicle” in proposed §218.2(b), in addition to the definition for
11 “farmer” from 49 C.F.R. §390.5T to help define the term “farm vehicle.”

12 A proposed amendment to the definition for “foreign commercial motor vehicle” in proposed
13 §218.2(b)(16) would replace the definition with a reference to the definition found in Transportation
14 Code, §648.001, which contains the complete definition. A proposed amendment to the definition for
15 “household goods carrier” in proposed §218.2(b)(19) would delete the clause regarding a commercial
16 enterprise to align with statute because that clause does not appear in Transportation Code, §643.051(b).

17 Although Transportation Code, §643.001 defines the term “motor carrier,” §643.001 does not
18 define the term “carrier.” Current §218.2(28) includes the same definition for the terms “motor carrier”
19 and “carrier.” For this reason, a proposed amendment would modify the definition for “motor carrier or
20 carrier” in proposed §218.2(b)(23) to refer to the definition in Transportation Code, §643.001(6), rather
21 than deleting the defined terms. A proposed amendment to the definition for “motor transportation
22 broker” in proposed §218.2(b)(24) would refer to the definition in Transportation Code, §646.001 because
23 it is not necessary to duplicate statutory language in a rule.

1 A proposed amendment to proposed §218.2(b)(28) would change the term “principal place of
2 business” to “principal business address” to use the same term that is used in Transportation Code,
3 §643.052(1). A proposed amendment to current §218.2(36) would delete the definition for “reasonable
4 dispatch” because the term only appears in §218.58, which is proposed to be repealed. A proposed
5 amendment to current §218.2(41) would delete the definition for “SOAH” because the acronym does not
6 appear in Chapter 218. Proposed amendments to §218.2 would renumber the definitions due to proposed
7 amendments that would delete definitions.

8 Subchapter B. Motor Carrier Registration.

9 A proposed amendment to §218.10 would delete the first sentence because it is not necessary to
10 repeat language from Transportation Code, §643.051 and §643.002. A proposed amendment to §218.10
11 would also modify the language regarding a household goods carrier because “household goods carrier”
12 is a defined term under §218.2. In addition, a proposed amendment to §218.10 would clarify the language
13 to state that a motor carrier, leasing business, or household goods carrier registers with the department.
14 Lastly, a proposed amendment to §218.10 would delete the reference to workers’ compensation because
15 Subchapter B of Chapter 218 does not set out the minimum workers’ compensation insurance
16 requirements.

17 Proposed amendments to §218.11 would replace the term “the public roads or highways” with
18 “a public highway,” which is a defined term in §218.2.

19 Many of the proposed amendments to §218.13 and §218.14 were presented to the Motor Carrier
20 Regulation Advisory Committee (MCRAC) for review and feedback at the MCRAC meeting in December
21 2023. The focus of the MCRAC meeting was to discuss the proposed amendments to §218.13 and §218.14
22 to detect and prevent chameleon motor carriers (chameleon carriers). A chameleon carrier is a motor
23 carrier that attempts to continue operating under a certificate of registration without addressing a

1 previous penalty, violation of a legal requirement, or order regarding violation of a legal requirement
2 under a different certificate of registration. There are two types of chameleon carriers: 1) a motor carrier
3 that applies to the department for a new certificate of registration to continue to operate as a motor
4 carrier under a different person's name or a different legal entity; and 2) a motor carrier that already has
5 more than one certificate of registration under different names or legal entities. Under this second type
6 of chameleon carrier, the motor carrier continues to operate under a different certificate of registration
7 when it incurs a penalty, is found to be in violation of a legal requirement, or receives an order regarding
8 a violation of a legal requirement under one of its current certificates of registration.

9 At the December 2023 MCRAC meeting, the MCRAC members made informal suggestions and
10 approved two motions requesting changes to the proposed amendments to §218.13. The department
11 made changes consistent with MCRAC's informal suggestions and one of its motions. Although MCRAC
12 recommended the deletion of proposed new §218.13(a)(3)(E), the department modified the language to
13 strike a balance between addressing the concerns of MCRAC and enabling the department to request
14 necessary information to help detect and prevent chameleon carriers.

15 The department also met with staff from the Federal Motor Carrier Safety Administration
16 (FMCSA) to learn how FMCSA detects chameleon carriers and prevents them from obtaining operating
17 authority for interstate transportation. In addition, the department reviewed the applicable federal laws
18 and forms to inform the department regarding the proposed amendments to §218.13. Further, the
19 department reviewed materials from International Registration Plan, Inc. regarding another state's
20 procedures to identify a possible chameleon carrier.

21 Many of the draft amendments to §218.13 are designed to require new applicants for intrastate
22 operating authority to provide the department with the information it needs to detect and prevent
23 chameleon carriers. The department's primary goal is to prevent chameleon carriers. However, the

1 additional information and documents addressed in the draft amendments to §218.13 would also help
2 the department detect any current chameleon carriers. The Texas Legislature passed laws to authorize
3 the department to deny intrastate operating authority to chameleon carriers and to revoke a chameleon
4 carrier’s intrastate operating authority, such as Transportation Code, §643.054(a-2) and §643.252(a)(7).

5 A proposed amendment to the introductory sentence in §218.13(a) would clarify and modernize
6 the rule by stating that an application for motor carrier registration must be filed electronically in the
7 department’s designated registration system and that the applicant must provide both information and
8 documents. A proposed amendment to §218.13(a)(1) would clarify that the applicant must provide a valid
9 United States Department of Transportation (USDOT) number that was issued to the applicant, to prevent
10 applicants from attempting to use others’ USDOT numbers.

11 Proposed amendments to §218.13(a)(2) would require the applicants to provide additional
12 information and documents, which would help the department to detect, prevent, and revoke chameleon
13 carriers. The department currently requires applicants to provide most of the information in proposed
14 new §218.13(a)(2)(A) and (B) regarding the applicant, including contact and identifying information.
15 Proposed new §218.13(a)(A) would also make the rule text consistent with the department’s current
16 process, which requires that the applicant’s name and email address match the information the applicant
17 provided to FMCSA to obtain the USDOT number that the applicant provided to the department in the
18 application. Proposed new §218.13(a)(2)(C) would add a new requirement for a legible and accurate
19 electronic image of the certificate of filing, certificate of incorporation, or certificate of registration on file
20 with the Secretary of State, as well as the existing requirement for an applicant to provide each assumed
21 named certificate on file with the Secretary of State or county clerk, if applicable.

22 Proposed new §218.13(a)(3)(A) through (F) would require applicants to provide information and
23 documents on the applicant’s owners, managers, representatives, and affiliates, as applicable. A proposed

1 amendment to §218.13(a)(3)(A) puts authorized representatives of an applicant on notice that they may
2 be required to provide written proof of authority to act on behalf of the applicant. Many of these
3 requirements are new requirements that would provide the department with additional information and
4 documents that are necessary to detect and prevent chameleon carriers.

5 At the MCRAC meeting in December 2023, members of MCRAC expressed concerns regarding a
6 prior draft of proposed new §218.13(a)(3)(E) because the language could have required applicants to
7 provide information on many employees who do not direct the operations of the motor carrier, and to
8 update the information frequently due to frequent staff turnover in lower-ranking positions. Although the
9 MCRAC members voted to strike new §218.13(a)(3)(E), the department instead further defined the
10 positions to which this application requirement applies to obtain relevant information to help the
11 department detect and prevent chameleon carriers by focusing on the applicant’s representatives who
12 have or exercise authority to direct some or all of the applicant’s operational policy regarding compliance
13 with applicable laws regarding a motor carrier. Examples of applicable laws regarding a motor carrier are
14 the motor carrier safety regulations that are administered by the Texas Department of Public Safety under
15 Transportation Code, Chapter 644 and 37 TAC Chapter 4 (Commercial Vehicle Regulations and
16 Enforcement Procedures).

17 Proposed amendments to §218.13(a)(4) would clarify the language and replace the term
18 “principal place of business” with the term “principal business address” to be consistent with the
19 terminology used in Transportation Code, §643.052(1). Proposed amendments to §218.13(a)(6) would
20 delete the word “commercial” from the term “commercial motor vehicle” because Transportation Code,
21 §643.051(b) requires a household goods carrier to obtain operating authority under Transportation Code,
22 Chapter 643, even if their motor vehicles do not fall within the definition of a “commercial motor vehicle”
23 as defined by Transportation Code, §548.001. A proposed amendment to §218.13(a)(6) would also

1 remove the word “motor” from the term “vehicle identification number” to make the term consistent
2 with current terminology.

3 A proposed amendment to §218.13(a)(7) regarding the type of motor carrier operations would
4 delete the language that requires the applicant to state if the applicant is domiciled in a foreign country,
5 and a proposed amendment to proposed new §218.13(a)(12)(E) would add this requirement because this
6 requirement does not deal with a type of motor carrier operation. Proposed amendments to
7 §218.13(a)(11)(A)(ii) and §218.13(a)(14) would replace the references to §218.2(8)(A)(ii) with references
8 to Transportation Code, §548.001(1)(B) to specify the portion of the definition for “commercial motor
9 vehicle” that deals with a vehicle designed or used to transport more than 15 passengers. These proposed
10 amendments are necessary because a proposed amendment to §218.2 would remove the specific
11 language from the definition of “commercial motor vehicle” and instead refer broadly to Transportation
12 Code, §548.001.

13 Proposed amendments to §218.13(a) and §218.13(a)(12) would clarify that the requirements
14 apply to an original application. A proposed amendment to §218.13(a)(12)(C) would add the word “the”
15 to improve the wording of the sentence.

16 A proposed amendment to §218.13(a)(12) would delete the language in subparagraph (D)
17 because the language is proposed to be moved to proposed new §218.13(a)(2)(A), and subsequent
18 subparagraphs are proposed to be re-lettered accordingly. Proposed amendments to new
19 §218.13(a)(12)(D) would incorporate the language from the New Applicant Questionnaire into rule text,
20 with certain amendments, such as to provide a three-year timeframe for certain responses. The New
21 Applicant Questionnaire was designed to obtain relevant information to help the department detect,
22 prevent, and revoke chameleon carriers.

1 Proposed amendments to proposed new §218.13(a)(12)(F) would include the current application
2 certification in rule text. A proposed amendment to proposed new §218.13(a)(12)(G) would clarify that
3 an application must be accompanied by any other information and documents the department requires
4 to evaluate the application under current law, to allow the department the latitude to request additional
5 required information and documentation in order to prevent chameleon carriers and ensure the applicant
6 is eligible for a certificate of registration under Chapter 218 and Transportation Code, Chapter 643.

7 Proposed amendments to §218.13(a) would also delete current language because the current
8 language was modified and incorporated into proposed amendments to §218.13(a) in addition to new
9 requirements. In addition, proposed amendments to §218.13(a) would renumber or re-letter subdivisions
10 due to deletions and additions.

11 A proposed amendment to §218.13(a)(14)(B) would replace the word “vehicles” with the word
12 “vehicle” to correct a grammatical error and to clarify that the requirement applies to each commercial
13 motor vehicle.

14 Proposed amendments throughout §218.13(c), (d), (g) and (i) would change the word “will” to
15 “shall” for clarity and consistency. Government Code, §311.016 defines the word “shall” to impose a duty,
16 which is the intended meaning in §218.13(c), (d), (g) and (i). A proposed amendment to §218.13(c)(2)
17 would change the term “registrant’s” to “motor carrier’s” because the term “motor carrier” is defined in
18 §218.2. A proposed amendment to §218.13(c)(2) would also change the term “principal place of business”
19 to “principal business address” to be consistent with terminology in Transportation Code, §643.052(1). A
20 proposed amendment to §218.13(c)(2)(C) would delete the word “commercial” from the term
21 “commercial motor vehicle” because Transportation Code, §643.051(b) applies to household goods
22 carriers, even if their motor vehicles do not fall within the definition of a “commercial motor vehicle” as
23 defined by Transportation Code, §548.001.

1 A proposed amendment to §218.13(c)(2)(F) would replace the word “information” with “cab
2 card” for consistency. In addition, a proposed amendment to §218.13(c)(2) would delete language in
3 subparagraph (G), which says the display of an image that includes the insurance cab card or the display
4 of insurance information via a wireless communication device does not constitute effective consent for a
5 law enforcement officer or any other person to access any other content of the wireless communication
6 device, because the department does not have the statutory authority for this language. However, the
7 person who chooses to display an image that includes the insurance cab card or the display of insurance
8 information via a wireless communication device can verbally specify the extent of their consent to having
9 the law enforcement officer or any other person access the device prior to displaying the image.

10 A proposed amendment to the introductory sentence in §218.13(e) would modernize the rule
11 text by adding language that says a motor carrier shall electronically file a supplement to an original
12 application in the department’s designated registration system. A proposed amendment to §218.13(e)(7)
13 would replace the word “re-register” with the word “reregister” because the word does not have a hyphen
14 in Transportation Code, §643.0585. A proposed amendment to §217.13(e)(7)(B) would replace the word
15 “facts” with the word “issue” for clarity.

16 A proposed amendment to §218.13(g) would delete the word “commercial” from the term
17 “commercial motor vehicle” because Transportation Code, §643.051(b) applies to household goods
18 carriers, even if their motor vehicles do not fall within the definition of a “commercial motor vehicle”
19 under Transportation Code, §548.001. Proposed amendments to §218.13(i) would require a motor carrier
20 with a certificate of registration to update their principal business address, mailing address, and email
21 address in the department’s online system within 30 days of a change to the information. This amendment
22 to §218.13(i) would replace a requirement for the motor carrier to review this information in the
23 department’s online system every six months and to update such information if it was no longer correct.

1 The requirement for the motor carrier to update information within 30 days is intended to provide the
2 department with updated information sooner and to eliminate an unnecessary requirement for a motor
3 carrier to review this information every six months even if there is no change to the information.

4 A proposed amendment to the title to §218.14 would delete the word “commercial” from the
5 term “commercial motor vehicle” because Transportation Code, §643.051(b) applies to household goods
6 carriers, even if their motor vehicles do not fall within the definition of a “commercial motor vehicle”
7 under Transportation Code, §548.001. Proposed amendments throughout §218.14 would change the
8 word “will” to “shall.” Government Code, §311.016 defines the word “shall” to impose a duty, which is
9 the intended meaning in §218.14. Proposed amendments throughout §218.14 would add a hyphen to the
10 words “90-day” and “seven-day” as a grammatical correction because the words are compound modifiers
11 of the word “certificates.”

12 A proposed amendment to §218.14(b)(1) would change the first sentence to say that the
13 department shall provide the renewal notice to each registered motor carrier at least 30 days before the
14 expiration to be consistent with Transportation Code, §643.058(b). A proposed amendment to
15 §218.14(b)(1) would also replace the word “division’s” with the term “Motor Carrier Division’s” due to the
16 proposed amendment that would delete the definition for the word “division” in §218.2. In addition, a
17 proposed amendment to §218.13(b)(1) would change the word “mailed” to “sent” because the
18 department may send the notice electronically. Further, a proposed amendment to §218.14(b)(1) would
19 remove the requirement for the motor carrier to submit its renewal application to the department at least
20 15 days prior to the renewal date because motor carriers now submit their renewals online in the
21 department’s designated registration system in which the renewal is automated if there are no issues with
22 the renewal application.

1 A proposed amendment to §218.14(b)(1) would add language that says a motor carrier shall
2 electronically file a renewal application in the department’s designated registration system to modernize
3 the rule. Also, proposed amendments to §218.14(b)(1)(A) would require the applicant to provide the
4 department with any new information and documents required under §218.13(e) if the information or
5 documents have not previously been provided to the department. The department needs updated
6 information and documents to ensure the motor carrier still qualifies to be a motor carrier, as well as to
7 prevent and detect chameleon carriers.

8 Proposed amendments to §218.14(b)(5) would make the language consistent with Transportation
9 Code, §643.058(d), which prohibits a motor carrier from renewing a registration that has been expired for
10 more than 180 days. Also, proposed amendments to §218.14(b)(5) would add language that says a motor
11 carrier shall electronically file a supplemental application in the department’s designated registration
12 system to modernize the rule. In addition, proposed amendments to §218.13(b)(5) would make the
13 language easier to read by breaking the language into multiple subparagraphs and improving the
14 language. A proposed amendment to new §218.14(b)(5)(C) would clarify the language by adding a
15 reference to evidence of financial responsibility as authorized by Transportation Code, §643.102.
16 Proposed amendments to new §218.14(b)(5)(C) would replace a reference to the “division” with a
17 reference to the “department.”

18 A proposed amendment to §218.14(c)(2) would replace the word “re-register” with the word
19 “reregister” because the word does not have a hyphen in Transportation Code, §643.0585. Proposed
20 amendments to §218.14(c)(2) would replace the term “public streets and highways” with “a public
21 highway,” which is a defined term in §218.2. Proposed amendments throughout §218.14(c) and §218.16
22 would change the word “will” to “shall.” Government Code, §311.016 defines the word “shall” to impose
23 a duty, which is the intended meaning in §218.14(c) and §218.16.

1 Proposed amendments to §218.16(a) would delete the word “commercial” in the term
2 “commercial automobile liability insurance” because Transportation Code, §643.101 does not use the
3 word “commercial” to describe the amount of liability insurance that is required under Transportation
4 Code, Chapter 643. A proposed amendment to §218.16(a) would clarify the coverage required under an
5 automobile liability insurance policy, which must cover bodily injury to or death of an individual, as well
6 as loss or damage to property.

7 A proposed amendment to §218.16(a) would also clarify the financial responsibility requirements
8 of a motor carrier that operates a foreign commercial motor vehicle in intrastate transportation in Texas
9 if the motor carrier is required to register with the department under Transportation Code, Chapter 643.
10 Although Transportation Code, §643.101(b) authorizes the department to set the amount of required
11 liability insurance at an amount that does not exceed the amount required for a motor carrier under a
12 federal regulation adopted under 49 U.S.C. §13906(a)(1), Transportation Code, §648.102 requires the
13 department to adopt rules that conform with 49 C.F.R. Part 387 requiring motor carriers that operate
14 foreign commercial motor vehicles in Texas to maintain financial responsibility. Also, Transportation Code,
15 §648.102(b) states that Transportation Code, Chapter 648 prevails over any other requirement of state
16 law relating to financial responsibility for operation of foreign commercial motor vehicles in Texas. The
17 department must comply with both Transportation Code, §643.101 and §648.102 regarding the required
18 amount of financial responsibility for a motor carrier that is required to register with the department
19 under Transportation Code, Chapter 643 that operates a foreign commercial motor vehicle in intrastate
20 transportation in Texas. The financial responsibility requirements under 49 C.F.R. §387.9 regarding
21 minimum levels of financial responsibility for motor carriers of property, and 49 C.F.R. §387.33T regarding
22 minimum levels of financial responsibility for motor carriers of passengers are higher than the minimum

1 levels of financial responsibility for certain motor carriers under §218.16 that do not operate a foreign
2 commercial motor vehicle.

3 In addition, proposed amendments to §218.16(a) would adopt by reference the required level of
4 financial responsibility under 49 C.F.R. Part 387, including any amendments that became effective through
5 July 1, 2024, for a motor carrier operating a foreign commercial motor vehicle in this state pursuant to
6 the department’s rulemaking authority under both Transportation Code, §643.101(b) and §648.102.
7 Lastly, a proposed amendment would delete reference to the amendments to 49 C.F.R. Part 387 with an
8 effective date of October 23, 2015, because FMCSA amended 49 C.F.R. Part 387 since October 23, 2015.

9 Proposed amendments to the second and third categories in Figure 43 TAC §218.16(a) would
10 modify the language to be consistent with Transportation Code, §548.001(1)(B) regarding vehicles,
11 including buses, designed or used to transport more than 15 passengers, including the driver. Proposed
12 amendments to the seventh and eighth categories in Figure 43 TAC §218.16(a) would modify the language
13 to be consistent with language in 49 C.F.R. §387.9(3) and (2), respectively, because federal law provides
14 the minimum levels of financial responsibility for intrastate transportation for these categories under 49
15 U.S.C. §31139(d). Proposed amendments to the ninth category in Figure 43 TAC §218.16(a) would modify
16 the language to be consistent with language in 49 C.F.R. §387.9(4) because Transportation Code,
17 §643.101(b) requires the department to set the amount of required liability insurance at an amount that
18 does not exceed the amount required for a motor carrier under a federal regulation adopted under 49
19 U.S.C. §13906(a)(1), which cites to §31139 regarding the minimum financial responsibility requirements
20 for transporting property. The statutory authority listed for 49 C.F.R. §387.9 regarding minimum levels of
21 financial responsibility for motor carriers of property includes 49 U.S.C. §13906 and §31139.

22 Proposed amendments to §218.16(b) would remove the words “for hire” because the term
23 “household goods carrier” is a defined term that already includes the language “for compensation.” A

1 proposed amendment to §218.16(b) would also change the word “shipper” to a plural possessive
2 “shippers” because the language deals with damage to multiple shippers’ cargo. Proposed amendments
3 to §218.16(c) would make the language consistent with the language in Transportation Code, §643.106
4 regarding insurance for employees. Proposed amendments to §218.16(c) would also add letters for new
5 subparagraphs (C) and (D) to break the paragraph into additional subdivisions to help make the language
6 consistent with the language in Transportation Code, §643.106.

7 Proposed amendments throughout §218.16(d) would add the term “motor carrier” after the term
8 “self-insured” for clarity. Proposed amendments to §218.16(d)(1) would clarify that an applicant for self-
9 insured status under Transportation Code, §643.102 is authorized to request self-insured status for cargo
10 liability, as well as for bodily injury and property damage liability. A proposed amendment to §218.16(d)(2)
11 would change the word “allow” to “enable” for clarity because the department is allowed to determine
12 whether the applicant should be granted self-insured status; however, the department needs information
13 and documents to enable the department to make the determination. A proposed amendment to
14 §218.16(d)(2) would replace the word “materials” with the term “information and documents” for clarity.

15 A proposed amendment to §218.16(d)(2)(B) would replace the term “security limits” with the
16 term “insurance levels” for clarity. A proposed amendment to §218.16(d)(2)(C) would make the language
17 consistent with the Texas Department of Public Safety’s “satisfactory safety rating” under Transportation
18 Code, Chapter 644 and 37 TAC §4.15. Also, a proposed amendment would authorize an applicant to
19 provide evidence of a “satisfactory” safety rating from FMCSA because a safety rating from FMCSA is
20 relevant evidence of the motor carrier’s safety program. Another proposed amendment to
21 §218.16(d)(2)(C) would state that an application by a motor carrier with less than a “satisfactory” safety
22 rating or no safety rating will be summarily denied. Transportation Code, §643.102 requires the

1 department to provide a responsible system of self-insurance for a motor carrier, and safety is an integral
2 component of such a system.

3 Proposed amendments to §218.16(d)(4) would replace the word “applicant” with the words
4 “approved self-insured motor carrier” or “motor carrier” for clarity. Proposed amendments to
5 §218.16(d)(4) would also update the language to reflect current procedures regarding the filing of annual
6 statements and any reports with the department.

7 Proposed amendments to §218.16(d)(5) would replace the word “applicant” with the term
8 “motor carrier” for clarity. A proposed amendment to §218.16(d)(5) would also clarify the department’s
9 current practice of including limitations, restrictions, and requirements in the department’s letter to
10 approve self-insured status under Transportation Code, §643.102.

11 Proposed amendments to §218.16(d)(6) update the language to reflect current procedures, to
12 clarify the language, and to remove unnecessary language.

13 A proposed amendment to §218.16(e)(2)(A) adds the word “a” to correct a grammatical error. A
14 proposed amendment to §218.16(e)(3) would change the word “shall” to “must” because it a condition
15 precedent for an applicant to pay the required filing fee of \$100 to obtain a certificate of registration.
16 Government Code, §311.016 states that the word “must” creates or recognizes a condition precedent. A
17 proposed amendment to §218.16(e)(3) would also combine the two sentences into one sentence to clarify
18 that the applicant is only required to pay the \$100 filing fee when the applicant submits an original
19 application and when the applicant submits a supplemental application when retaining a revoked
20 certificate of registration number. Transportation Code, §643.103(a) and (c) only authorize the
21 department to charge the \$100 filing fee in certain circumstances, which are more limited than the
22 circumstances under which a motor carrier’s insurer is required to file proof of insurance with the
23 department under §218.16(e)(2).

1 A proposed amendment to §218.16(f) would make the language consistent with Transportation
2 Code, §643.104(a) by modifying the language and replacing the word “shall” with “may not.” Government
3 Code, §311.016 defines the word “may not” as imposing a prohibition, and the language in §218.16(f) is
4 intended to be a prohibition. Transportation Code, §643.104(a) prohibits an insurer from terminating
5 insurance coverage to a motor carrier that is registered under Subchapter B of Transportation Code,
6 Chapter 643 unless the insurer provides the department with notice at least 30 days before the date the
7 termination of insurance takes effect. Proposed amendments to §218.16(f) would also add a hyphen to
8 the words “90-day” and “seven-day” as a grammatical correction because the words are compound
9 modifiers of the word “certificates.” Proposed amendments to §218.16(h) would make the language
10 consistent with Transportation Code, §643.105 and would specify the people who are authorized to sign
11 the affidavit for the motor carrier if an insurer for a motor carrier becomes insolvent, is placed in
12 receivership, or has its certificate of authority suspended or revoked, and the motor carrier no longer has
13 insurance coverage as required by Transportation Code, Chapter 643, Subchapter C.

14 A proposed amendment to §218.18(d) would clarify that a motor carrier is not required to carry
15 proof of registration in a vehicle leased from a registered leasing business under a short-term lease.
16 Transportation Code, §643.063(a)(2) defines a “short-term lease” as a lease of 30 days or less.
17 Subchapter C. Records and Inspections.

18 A proposed amendment to §218.31(b)(3) would change the word “will” to “shall” for consistency
19 and clarity. Government Code, §311.016 defines the word “shall” to impose a duty, and that is the
20 intended meaning in §218.31. Proposed amendments to §218.31(c)(1) and §218.32(c) would change the
21 term “principal place of business” to “principal business address” for consistency, to use the same term
22 that is defined in §218.2 and used in Transportation Code, §643.052. A proposed amendment to
23 §218.32(c) would also decapitalize the word “department” because the word is not capitalized in

1 Transportation Code, Chapter 643. In addition, a proposed amendment to §218.32(c)(3) would delete a
2 reference to 49 C.F.R. §390.29 because the inspection of documents for motor carriers that are required
3 to register under Transportation Code, Chapter 643 is governed by Transportation Code, §643.254.
4 Subchapter D. Motor Transportation Brokers.

5 A proposed amendment to §218.41(b)(3) would replace the word “shipper” with a reference to
6 the person to whom the motor transportation broker provides services to clarify that this language is not
7 limited to a shipper of a household goods motor carrier. A proposed amendment to §218.41(b)(3) would
8 also change the word “it” to “the person” to conform with the proposed amendment to replace the
9 reference to the word “shipper.” A proposed amendment to §218.41 would delete subsection (d),
10 regarding the amount of recovery, because the department does not have the statutory authority for this
11 language.

12 Subchapter E. Consumer Protection.

13 Proposed amendments to §218.53 would replace the mandatory standard for uniform cargo
14 liability with a voluntary standard for uniform cargo liability for a household goods carrier as authorized
15 by Transportation Code, §643.152. The proposed amendments to §218.53 are consistent with 49 C.F.R.
16 §375.201, which is a federal regulation adopted under Subtitle IV, Title 49, United States Code. The
17 language in Transportation Code, §643.152 is based on language in 49 U.S.C. §14501(c)(1) and (3)(A) and
18 (B), which is a federal preemption statute. Even though 49 U.S.C. §14501(c)(2)(B) says that the restrictions
19 in subsection (c)(1) do not apply to the intrastate transportation of household goods, Transportation
20 Code, §643.152 does not provide an exemption for the intrastate transportation of household goods. The
21 department therefore does not have statutory authority to set a mandatory standard for uniform cargo
22 liability for the intrastate transportation of household goods in Texas. In the absence of a mandatory
23 standard, household goods carriers and shippers are authorized to agree to limits of liability for each

1 intrastate shipment of household goods. A proposed amendment to §218.53 would also adopt by
2 reference 49 C.F.R. §375.201, including any amendments that became effective through July 1, 2024.

3 Proposed amendments to §218.54(a) would replace the word “carrier” with the possessive word
4 “carrier’s” to fix a grammatical error, include a reference to the moving service contract between the
5 parties (including a pre-existing transportation contract as described by §218.57(d)) to replace a reference
6 to §218.53 regarding the amount of the household goods carrier’s liability, and clarify that the parties
7 could agree that the household goods carrier would have no liability for loss or damage regarding the
8 shipper’s property. A proposed amendment to §218.54(d) would replace the catch line for the subsection
9 because the word “penalty” is a confusing term. The department is authorized to assess administrative
10 penalties, which is something different than the liability referenced in §218.54(d).

11 A proposed amendment to §218.56(a)(5) would delete language regarding the mandatory
12 uniform cargo liability that the department proposes to delete under current §218.53. A proposed
13 amendment to §218.56(a)(5) would also reword the sentence due to the deletion and clarify that the
14 proposal may state that the household goods carrier would have no liability for loss or damage regarding
15 the shipper’s property. A proposed amendment to §218.56(e)(3) would delete language regarding a
16 portion of a uniform bill of lading under §218.58, which the department proposes to repeal. A proposed
17 amendment to §218.56(e)(3) would also insert a reference to the moving services contract.

18 Proposed amendments to §218.57(a)(6) would delete a reference to the mandatory uniform
19 cargo liability under current §218.53 and would replace the language with text that is similar to the
20 language in 49 C.F.R. §375.201 regarding the disclosure of the limits of the household goods carrier’s
21 liability for loss or damage to a shipper’s household goods; however, the proposed amendment would
22 also clarify that the moving services contract must expressly state if the household goods carrier’s liability
23 is \$0.00 for loss or damage to a shipper’s household goods.

1 Proposed amendments to §218.57(a)(7) would delete a reference to the mandatory uniform
2 cargo liability under current §218.53 and would replace the language with text that requires the
3 household goods carrier to clearly and concisely disclose any costs associated with the household goods
4 carrier's increased liability for loss or damage to a shipper's household goods. A proposed amendment to
5 §218.57(a)(9) would replace a mandatory clause with an explanation of the clause that a household goods
6 carrier must include in its contract with a shipper to put the shipper on notice regarding the documents
7 that constitute the contract. The mandatory clause in current §218.57(a)(9) appears to be written for a
8 hard copy of the moving services contract because it refers to the front and back of this document;
9 however, the parties may use an electronic version of the moving services contract. Also, the mandatory
10 clause in current §218.57(a)(9) refers to an addendum; however, the average shipper may not know what
11 an addendum is. The proposed amendment to §218.57(a)(9) would give the household goods carrier the
12 flexibility to draft a clause that works for its moving services contract.

13 Proposed new §218.57(a)(13) would add a new clause to require the household goods carrier to
14 include certain language in the moving services contract regarding the claims process for a shipper who
15 wants to file a claim against the household goods carrier. This language is designed to protect a consumer
16 using the services of a household goods carrier, as authorized by Transportation Code, §643.153(a) and
17 (b). Although the department is prohibited from establishing a uniform bill of lading under Transportation
18 Code, §643.152, the prohibitions under §643.152 are intended to prohibit the economic regulation of
19 motor carriers regarding the prices, routes, or services as stated in Transportation Code, §643.151 and
20 the title to Transportation Code, Chapter 643, Subtitle D (Economic Regulation). The proposed new
21 §218.57(a)(13) is not an economic regulation regarding the household goods carrier's prices, routes, or
22 services. Unlike the language the department proposes to delete from §218.53 and §218.58, the language
23 in proposed new §218.57(a)(13) does not directly or indirectly impact a household goods carrier's price

1 or service because it does not limit a household goods carrier’s discretion to limit or qualify its liability for
2 services. The proposed new §218.57(a)(13) deals with the claims process under §218.61, which is part of
3 the department’s formal process for resolving a dispute over a fee or damage under Transportation Code,
4 §643.153(b)(1). Due to the proposed new §218.57(a)(13), proposed amendments to §218.57(a) would
5 delete the word “and” in §218.57(a)(11) and would add the word “and” at the end of §218.57(a)(12).

6 The department proposes the repeal of §218.58 because Transportation Code, §643.152 says that
7 the department is only authorized to establish a voluntary standard for “uniform bills of lading or receipts
8 for cargo being transported” and that any voluntary standard that the department establishes must be
9 consistent with Subtitle IV, Title 49, United States Code, or a regulation adopted under that law. The
10 language in Transportation Code, §643.152 is based on language in 49 U.S.C. §14501(c)(1) and (3)(A) and
11 (B), which is a federal preemption statute. Section 14501(3)(A) uses the terms “uniform cargo liability”
12 and “uniform bills of lading or receipts for property being transported” that also appear in Transportation
13 Code, §643.152. The federal laws on household goods movers are therefore relevant sources to determine
14 what the Texas Legislature intended the term “bill of lading” to mean in Transportation Code, §643.152.
15 Federal law, such as 49 C.F.R. §375.103, and Appendix A to 49 C.F.R. Part 375 (Your Rights and
16 Responsibilities When You Move), Definitions and Common Terms, and the language in the department’s
17 rules, such as the definition for “moving services contract” in §218.2 and the language in §218.58, state
18 that a bill of lading is a moving services contract. As a result, a “moving services contract” in §218.58 is a
19 “bill of lading” under state and federal law. The language in current §218.58 therefore is a mandatory
20 standard for a portion of a “uniform bill of lading” regarding limitation of liability, that is impermissible
21 under Transportation Code, §643.152. To the extent the household goods carrier seeks to alter or expand
22 on the limitation of liability language that is set forth in §218.57, §218.58 requires the household goods
23 carrier to include one of two sets of legal terms and conditions verbatim in their moving services contract

1 with the shipper, which means the language in current §218.58 is a mandatory standard for a portion of
2 a “uniform bill of lading” regarding limitation of liability. As stated above, current §218.57(a)(6) and (7)
3 include uniform cargo liability language, which is the language that says a household goods carrier’s
4 liability for loss or damage to any shipment is \$0.60 per pound per article, unless the carrier and shipper
5 agree, in writing, to a greater level of liability. These are mandatory standards, which the department
6 lacks legal authority to create through rule under Transportation Code, §643.152.

7 Moreover, the department is not authorized to amend §218.58 to say that it is a voluntary
8 standard because Transportation Code, §643.152 says that the department is only authorized to establish
9 a voluntary standard for “uniform bills of lading or receipts for cargo being transported” and that any
10 voluntary standard that the department establishes must be consistent with Subtitle IV, Title 49, United
11 States Code, or a regulation adopted under that law. The language in §218.58 is not entirely consistent
12 with Subtitle IV, Title 49, United States Code, or a regulation adopted under that law, such as 49 C.F.R Part
13 375 (Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations).

14 A proposed amendment to §218.61(b)(1) would provide a clear deadline of 23 days for a
15 household goods carrier to issue the acknowledgment letter to the claimant, and a proposed amendment
16 to §218.61(b)(1)(B) would make a conforming amendment due to the proposed amendment to
17 §218.61(b)(1). The current 20-day deadline for a household goods carrier to send an acknowledgment of
18 the claim to the claimant excludes Sundays and nationally-recognized holidays, which makes it harder for
19 a household goods carrier to calculate the deadline.

20 Proposed amendments to §218.61(b)(1)(A) and (2) would also provide a clear deadline of 35 days
21 for a shipper to submit a request for mediation to the department. The current 30-day deadline excludes
22 Sundays and nationally recognized holidays, which makes it harder for a shipper to calculate the deadline.

1 Section 218.62 describes the mediation process, which is part of the department’s formal process
2 for resolving a dispute over a fee or damage under Transportation Code, §643.153(b)(1) to protect a
3 shipper of a household goods carrier from deceptive or unfair practices and unreasonably hazardous
4 activities. Proposed amendments to §218.62(a) would clarify that a claimant may only make a written
5 request to the department for mediation regarding a dispute over a fee or damage to a shipper’s
6 household goods because Transportation Code, §643.153(b)(1) authorizes the department to establish a
7 formal process for resolving a dispute over a fee or damage. There are other potential claims that a
8 claimant may have against a household goods carrier, such as a personal injury claim, that are outside the
9 scope of the department’s mediation program. The claimant may have the right to seek damages against
10 the household goods carrier or the responsible individuals in a court of law.

11 A proposed amendment to §218.62(c) would provide a clear deadline of 35 days for a shipper to
12 submit a request for mediation to the department. The current 30-day deadline excludes Sundays and
13 nationally recognized holidays, which makes it harder for a shipper to calculate the deadline. A proposed
14 amendment to §218.62(d) would make a conforming amendment to increase the number of days after
15 which the department shall deny a request for mediation due to the proposed amendment to §218.62(c).
16 The proposed amendment to §218.62(d) would substitute “125 days” for “120 days (excluding Sundays
17 and nationally recognized holidays).” The current 90-day deadline in §218.61(a)(1) does not include the
18 clause “(excluding Sundays and nationally recognized holidays),” so 90 days plus the proposed new 35-
19 day deadline under the proposed amendment to §218.62(c) would equal 125 days. A proposed
20 amendment to §218.62(f) would make a conforming amendment to increase the 30-day deadline to a 35-
21 day deadline for a shipper to submit a request for mediation to the department, due to the proposed
22 amendment to §218.62(c).

1 A proposed amendment to §218.62(c)(3) would fix a grammatical error by changing the word
2 “has” to “have.” Proposed amendments to §218.62(d) would change the word “will” to “shall” for
3 consistency and clarity. Government Code, §311.016 defines the word “shall” to impose a duty, which is
4 the intended meaning in §218.62(d). A proposed amendment to §218.62(f) would modernize the rule by
5 authorizing the calculation of the 30-day deadline for requesting mediation to be based on the date the
6 claim denial or settlement offer letter is emailed to the claimant.

7 Proposed amendments to §218.62(i) would add a new paragraph (1) and modify the requirement
8 for a household goods carrier to participate in the mediation process due to the amendments to §218.53
9 to change the mandatory uniform cargo liability to a new voluntary standard. The draft amendments to
10 §218.62(i) would strike a balance between protecting a shipper and not forcing the household goods
11 carrier to mediate a shipper’s claim for loss or damage regarding the shipper’s property that conflicts with
12 the terms of the moving services contract regarding the household goods carrier’s liability. Because there
13 would no longer be a mandatory standard for uniform cargo liability under the proposed amendments to
14 §218.53, the household goods carrier and the shipper could agree in their moving services contract that
15 the household goods carrier will have \$0.00 liability for loss or damage to the shipper’s property, which
16 may reduce the contract costs for the shipper. If the parties agree that there will be \$0.00 liability or if a
17 pre-existing transportation contract states the household goods carrier will have \$0.00 liability, there is
18 nothing to mediate regarding liability for loss or damages to the shipper’s property. However, there could
19 still be a need for a mediation regarding a possible claim on the fee under the moving services contract,
20 or a claim if the shipper purchases insurance from the household goods carrier and the household goods
21 carrier does not obtain the insurance policy or other appropriate evidence of purchased insurance for the
22 shipper under §218.54. Proposed amendments to §218.62(i) would also add a new paragraph (2) to
23 separate the new language in new paragraph (1) from the current language in §218.62(i) regarding the

1 department’s authority to impose administrative penalties on a household goods carrier who refuses to
2 participate in mediation as required by §218.62. In addition, a proposed amendment to new §218.62(i)(2)
3 would substitute the word “penalties” for the word “sanctions” because §218.71 deals with penalties,
4 rather than sanctions.

5 Proposed amendments to §218.64(a) and (b) would delete references to “two incorporated
6 cities” to be consistent with the language in Transportation Code, §643.153 regarding the tariff that a
7 household goods carrier shall file with the department regarding the maximum charges for all
8 transportation services. A proposed amendment to §218.64(c)(3)(B) would replace the word “applicant”
9 with the word “association” because the language refers to the association. A proposed amendment to
10 §218.64(c)(6)(B) would make the language consistent with the language in Transportation Code,
11 §643.154(e) regarding the approval of a collective ratemaking agreement. A proposed amendment to
12 §218.64(c)(9) would change the word “of” to “by” to correct a grammatical error.

13 Proposed new §218.64(d) would exempt a household goods carrier that is required to register
14 under Transportation Code, Chapter 643 from Chapter 15, Business and Commerce Code, for an activity
15 relating to the establishment of a joint line rate, route, classification, or mileage guide, as authorized by
16 Transportation Code, §643.154(c).

17 Proposed amendments to §218.64 and §218.65 would change the word “will” to “shall” for
18 consistency and clarity. Government Code, §311.016 defines the word “shall” to impose a duty, which is
19 the intended meaning in §218.64 and §218.65.

20 A proposed amendment to §218.65(a)(1)(E) would delete language contained within parentheses
21 because paragraph (1) is supposed to list the contents of the tariff; however, the deleted language would
22 be moved to the appropriate location in §218.65 under proposed amendments referenced below. A
23 proposed amendment to §218.65(a)(3)(B) would replace the term “principal office” with the term

1 “principal business address,” which is the term used in Transportation Code, §643.052 and a defined term
2 in §218.2. A proposed amendment to §218.65(a)(3)(C) would add the words “certificate of” for clarity
3 because the transmittal letter must include the household goods carrier’s certificate of registration
4 number. Proposed new §218.65(a)(4)(D) would add the first sentence from the language that would be
5 removed from the parentheses in §218.65(a)(1)(E) regarding the requirement to file the mileage guide as
6 an addendum to the tariff because §218.65(a)(4) is the correct location for this language. Another
7 proposed amendment to §218.65 would delete subsection (b) as outdated and unnecessary because the
8 oldest tariff that is on file with the department is dated 2018. All tariffs must now comply with §218.65.
9 Proposed new §218.65(b) would contain the second sentence from the language that would be removed
10 from the parentheses in §218.65(a)(1)(E) regarding the requirement to allow department personnel free
11 access to a computer database used as a mileage guide in the household goods carrier’s tariff.

12 Subchapter F. Administrative Penalties and Sanctions.

13 Proposed amendments to §218.72 would add the word “Texas” to clarify that the references are
14 to the Texas Department of Public Safety. Proposed amendments to §218.72(c) would replace the word
15 “motor” with “household goods” for clarity and consistency because the term “household goods carrier”
16 is a defined term in §218.2. Proposed amendments to §218.72(c) would also replace the words “mover’s”
17 and “mover” with the terms “goods carrier’s” and “goods carrier” for clarity and consistency because
18 “household goods carrier” is a defined term in §218.2.

19 Subchapter G. Financial Responsibility for Foreign Commercial Motor Vehicles.

20 A proposed amendment to §218.80 would clarify that for the purposes of Subchapter G of Chapter
21 218, the term “motor carrier” is defined by Transportation Code, §648.001, which defines the term “motor
22 carrier” to include a foreign motor carrier and a foreign motor private carrier, as defined in 49 U.S.C.
23 §13102(6) and (7). Also, proposed amendments to §218.80 would clarify that Subchapter G does not apply

1 to a motor carrier that is required to register with the department under Transportation Code, Chapter
2 643 because the financial responsibility requirements for such a motor carrier are addressed in §218.16.
3 In addition, a proposed amendment to §218.80 would clarify that Subchapter G does not apply to a motor
4 carrier that is required to register with FMCSA for interstate transportation and is not operating in
5 intrastate transportation within this state. FMCSA has the authority to regulate motor carriers regarding
6 interstate transportation.

7 A proposed amendment to §218.82(a) would delete the second sentence regarding a motor
8 carrier that is required to register with the department under Transportation Code, Chapter 643 due to
9 the proposed amendments to §218.80, including the amendment that would move most of this second
10 sentence to §218.80 with some changes. A proposed amendment to §218.82(a) would also change the
11 term “public road or highway” to “public highway,” which is a defined term in §218.2.

12 Proposed amendments to §218.82(b) would adopt by reference the required level of financial
13 responsibility under 49 C.F.R. Part 387, including any amendments that became effective through July 1,
14 2024. Also, a proposed amendment to §218.82(b) would delete reference to the amendments to 49 C.F.R.
15 Part 387 with an effective date of October 23, 2015, because FMCSA amended 49 C.F.R. Part 387 since
16 October 23, 2015.

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

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

4 Anticipated Public Benefits. The public benefits anticipated as a result of the proposal include
5 rules, which will be consistent with applicable law and provide the public with information regarding the
6 department's current processes.

7 Anticipated Costs To Comply With The Proposal. Mr. Archer anticipates that there will be costs to
8 comply with these rules because the applicants will be required to gather and provide more information
9 and documents to the department in applications under §218.13; however, it is hard to estimate these
10 costs.

11 There may be one-time costs for household goods carriers to modify their proposals and
12 estimates for moving services, as well as their moving services contracts and their template
13 acknowledgment to a claim from the shipper, due to the proposed amendments to §§218.53, 218.56,
14 218.57, and 218.61; however, it would be difficult to estimate these costs, if any, because the costs will
15 vary based on the hard-copy or electronic method that the carriers use to create their proposals,
16 estimates, acknowledgments, and moving services contracts.

17 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government
18 Code, §2006.002, the department has determined that the proposed amendments will have an adverse
19 economic effect on small businesses and micro-businesses. The department does not collect the kind of
20 information on the motor carriers under Chapter 218 that is necessary to determine whether the motor
21 carriers fall within the definition of a small business or a micro-business under Government Code, Chapter
22 2006; however, it is likely that a majority of the motor carriers fall within the definition of a small business
23 or a micro-business under Government Code, Chapter 2006. The proposed amendments will not have an

1 adverse economic effect on rural communities as defined by Government Code, Chapter 2006 because
2 Transportation Code, §643.002(6) exempts vehicles operated by a governmental entity from the
3 requirements under Chapter 218 and Transportation Code, Chapter 643. Any adverse economic impact
4 on motor carriers from the requirement to provide additional information and documents in their
5 applications to the department and any adverse economic impact on household goods carriers from
6 having to update their forms are not likely to cause an adverse economic effect on any rural communities
7 in which these motor carriers might be located.

8 There will be costs for motor carriers to comply with the amendments to §218.13 because the
9 applicants will be required to gather and provide more information and documents to the department in
10 applications. Although it is hard to estimate these costs, the information and documents are necessary to
11 detect and prevent chameleon carriers as described in the explanation of the amendments to §218.13.
12 These amendments are necessary to protect the public from chameleon carriers; therefore, the
13 department is not required to consider alternatives because alternatives would not protect the health
14 and safety of the public under Government Code, §2006.002(c-1).

15 There may be costs for household goods carriers to modify their proposals and estimates for
16 moving services, as well as their moving services contracts and their template acknowledgment to a claim
17 from the shipper, due to the amendments to §§218.53, 218.56, 218.57, and 218.61. It is difficult to
18 estimate these costs, if any, and the costs will vary based on whether the carriers use electronic or hard-
19 copy documents. However, these amendments are designed to protect consumers of household goods
20 carriers from deceptive or unfair practices and unreasonably hazardous activities under Transportation
21 Code, §643.153(a) and (b). Therefore, the department is not required to consider alternatives because
22 alternatives would not protect the health and safety of the public under Government Code, §2006.002(c-
23 1).

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

5 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the
6 first five years the proposed amendments and repeal are in effect, no government program would be
7 created or eliminated. Implementation of the proposed amendments and repeal would not require the
8 creation of new employee positions or elimination of existing employee positions. Implementation would
9 not require an increase or decrease in future legislative appropriations to the department. The proposed
10 amendments and repeal do not create a new regulation, but they do expand existing regulations regarding
11 applications for motor carrier operating authority, primarily to detect and prevent chameleon carriers.
12 The proposed amendments would limit and repeal regulations by removing the requirement for a motor
13 carrier to submit its renewal application at least 15 days prior to the renewal date under §218.14(b)(1),
14 and removing the mandatory requirements for limitations of liability and bills of lading under §218.53,
15 §218.57 and §218.58. Lastly, the proposed amendments and repeal do not affect the number of
16 individuals subject to each rule's applicability and will not affect this state's economy.

17 **REQUEST FOR PUBLIC COMMENT.**

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

23

1 practice stating the nature and requirements of all available formal and informal procedures; and the
2 statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein
3 by reference.

4 **CROSS REFERENCE TO STATUTE.** The proposed amendments implement Transportation Code, Chapter
5 643; and Government Code, Chapter 2001.

6

7 TEXT.

8 §218.2. Definitions.

9 (a) The definitions contained in Transportation Code, Chapter 643 apply to this chapter. In the
10 event of a conflict with this chapter, the definitions contained in Transportation Code, Chapter 643
11 control; however, the definition of the word “director” in this section controls over the definition in
12 Transportation Code, Chapter 643.

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

15 (1) Advertisement--An oral, written, graphic, or pictorial statement or representation
16 made in the course of soliciting intrastate household goods transportation services, including, without
17 limitation, a statement or representation made in a newspaper, magazine, or other publication, or
18 contained in a notice, sign, poster, display, circular, pamphlet, or letter, or on radio, the Internet, or via
19 an online [~~on-line~~] service, or on television. The term does not include direct communication between a
20 household goods carrier or carrier's representative and a prospective shipper, and does not include the
21 following:

22 (A) promotional items of nominal value such as ball caps, tee shirts, and pens;

23 (B) business cards;

1 (C) listings not paid for by the household goods carrier or its household goods
2 carrier's agent; and

3 (D) listings of a household goods carrier's business name or assumed name as it
4 appears on the motor carrier certificate of registration, and the household goods carrier's address, and
5 contact information in a directory or similar publication.

6 (2) Approved association--A group of household goods carriers, its agents, or both, that
7 has an approved collective ratemaking agreement on file with the department under §218.64 of this
8 title (relating to Rates).

9 (3) Binding proposal--A ~~formal~~ written offer stating the exact price for the
10 transportation of specified household goods and any related services.

11 (4) Board--Board of the Texas Department of Motor Vehicles.

12 (5) Certificate of insurance--A certificate prescribed by and filed with the department in
13 which an insurance carrier or surety company warrants that a motor carrier for whom the certificate is
14 filed has the minimum coverage as required by §218.16 of this title (relating to Insurance
15 Requirements).

16 (6) Certificate of registration--A certificate issued by the department to a motor carrier
17 and containing a unique number.

18 (7) Certified scale--Any scale designed for weighing motor vehicles, including trailers or
19 semitrailers not attached to a tractor, and certified by an authorized scale inspection and licensing
20 authority. A certified scale may also be a platform-type or warehouse-type scale properly inspected and
21 certified.

22 (8) Commercial motor vehicle--As defined in Transportation Code, §548.001.

23 [~~(A) Includes:~~]

1 ~~[(i) any motor vehicle or combination of vehicles with a gross weight,~~
2 ~~registered weight, or gross weight rating in excess of 26,000 pounds, that is designed or used for the~~
3 ~~transportation of cargo in furtherance of any commercial enterprise;]~~

4 ~~[(ii) any vehicle, including buses, designed or used to transport more~~
5 ~~than 15 passengers, including the driver; and]~~

6 ~~[(iii) any vehicle used in the transportation of hazardous materials in a~~
7 ~~quantity requiring placarding under the regulations issued under the federal Hazardous Materials~~
8 ~~Transportation Act (49 U.S.C. §§5101-5128).]~~

9 ~~[(B)]~~ The definition for commercial motor vehicle does ~~[Does]~~ not include:

10 (A) ~~[(+)]~~ a farm vehicle with a gross weight, registered weight, or ~~[and]~~
11 gross weight rating of less than 48,000 pounds;

12 (B) ~~[(+)]~~ a cotton vehicle ~~[vehicles]~~ registered under Transportation
13 Code, §504.505;

14 (C) ~~[(+)]~~ a vehicle registered with the Railroad Commission under
15 Natural Resources Code, §113.131 and §116.072;

16 (D) ~~[(+)]~~ a vehicle operated by a governmental entity;

17 (E) ~~[(+)]~~ a motor vehicle exempt from registration by the Unified Carrier
18 Registration Act of 2005; and

19 (F) ~~[(+)]~~ a tow truck, as defined by Occupations Code, §2308.002 ~~[and~~
20 ~~permitted under Occupations Code, Chapter 2308, Subchapter C].~~

21 ~~[(9) Commercial school bus—A motor vehicle owned by a motor carrier that is:]~~

22 ~~[(A) registered under Transportation Code, Chapter 643, Subchapter B;]~~

23 ~~[(B) operated exclusively within the boundaries of a municipality and used to~~

1 ~~transport preprimary, primary, or secondary school students on a route between the students'~~
2 ~~residences and a public, private, or parochial school or daycare facility;]~~

3 ~~[(C) operated by a person who holds a driver's license or commercial driver's~~
4 ~~license of the appropriate class for the operation of a school bus;]~~

5 ~~[(D) complies with Transportation Code, Chapter 548; and]~~

6 ~~[(E) complies with Transportation Code, §521.022.]~~

7 (9) ~~[(10)]~~ Conspicuous--Written in a size, color, and contrast so as to be readily noticed
8 and understood.

9 (10) ~~[(11)]~~ Conversion--A change in an entity's organization that is implemented with a
10 Certificate of Conversion issued by the Texas Secretary of State under Business ~~[and]~~ Organizations
11 Code, §10.154.

12 ~~[(12) Department--Texas Department of Motor Vehicles (TxDMV).]~~

13 (11) ~~[(13)]~~ Director--The director of the department's Motor Carrier Division, whom the
14 executive director of the department designated as the director under Transportation Code,
15 §643.001(2) ~~[Texas Department of Motor Vehicles].~~

16 ~~[(14) Division--The Motor Carrier Division.]~~

17 (12) ~~[(15)]~~ Estimate--An informal oral calculation of the approximate price of
18 transporting household goods.

19 (13) ~~[(16)]~~ Farmer--A person who operates a farm or is directly involved in cultivating
20 land, ~~[or in raising]~~ crops, or livestock that are owned by or are under the direct control of that person.

21 (14) ~~[(17)]~~ Farm vehicle--A commercial motor vehicle that is: [Any vehicle or
22 combination of vehicles controlled or operated by a farmer or rancher being used to transport
23 agriculture products, farm machinery, and farm supplies to or from a farm or ranch.]

- 1 (A) controlled and operated by a farmer to transport either:
2 (i) agricultural products; or
3 (ii) farm machinery, farm supplies, or both, to and from a farm;
4 (B) not being used in the operation of a for-hire motor carrier;
5 (C) not carrying hazardous materials of a type or quantity that requires the
6 commercial motor vehicle to be placarded in accordance with 49 C.F.R. §177.823; and
7 (D) being used within 150 air-miles of the farmer’s farm.

8 (15) [(18)] FMCSA--Federal Motor Carrier Safety Administration.

9 (16) [(19)] Foreign commercial motor vehicle--As defined in Transportation Code,

10 §648.001. [A commercial motor vehicle that is owned by a person or entity that is domiciled in or a

11 citizen of a country other than the United States.]

12 (17) [(20)] Gross weight rating--The maximum loaded weight of any combination of

13 truck, tractor, and trailer equipment as specified by the manufacturer of the equipment. If the

14 manufacturer's rating is unknown, the gross weight rating is the greater of:

15 (A) the actual weight of the equipment and its lading; or

16 (B) the maximum lawful weight of the equipment and its lading.

17 ~~[(21) Household goods--Personal property intended ultimately to be used in a dwelling~~

18 ~~when the transportation of that property is arranged and paid for by the householder or the~~

19 ~~householder's representative. The term does not include personal property to be used in a dwelling~~

20 ~~when the property is transported from a manufacturing, retail, or similar company to a dwelling if the~~

21 ~~transportation is arranged by a manufacturing, retail, or similar company.]~~

22 (18) [(22)] Household goods agent--A motor carrier who transports household goods

23 on behalf of another motor carrier.

1 (19) ~~[(23)]~~ Household goods carrier--A motor carrier who transports household goods
2 for compensation ~~[or hire in furtherance of a commercial enterprise]~~, regardless of the size of the
3 vehicle.

4 ~~[(24) Insurer--A person, including a surety, authorized in this state to write lines of~~
5 ~~insurance coverage required by Subchapter B of this chapter.]~~

6 (20) ~~[(25)]~~ Inventory--A list of the items in a household goods shipment and the
7 condition of the items.

8 (21) ~~[(26)]~~ Leasing business--A person that leases vehicles requiring registration under
9 Subchapter B of this chapter to a motor carrier that must be registered.

10 (22) ~~[(27)]~~ Mediation--A non-adversarial form of alternative dispute resolution in which
11 an impartial person, the mediator, facilitates communication between two parties to promote
12 reconciliation, settlement, or understanding.

13 (23) ~~[(28)]~~ Motor Carrier or carrier--As defined in Transportation Code, §643.001(6). ~~[A~~
14 ~~person who controls, operates, or directs the operation of one or more vehicles that transport persons~~
15 ~~or cargo over a public highway in this state.]~~

16 (24) ~~[(29)]~~ Motor transportation broker--As defined in Transportation Code, §646.001.
17 ~~[A person who sells, offers for sale, or negotiates for the transportation of cargo by a motor carrier~~
18 ~~operated by another person or a person who aids and abets another person in selling, offering for sale,~~
19 ~~or negotiating for the transportation of cargo by a motor carrier operated by another person.]~~

20 (25) ~~[(30)]~~ Moving services contract--A contract between a household goods carrier
21 and shipper, such as a bill of lading, receipt, order for service, or work order, that sets out the terms of
22 the services to be provided.

23 (26) ~~[(31)]~~ Multiple user--An individual or business who has a contract with a

1 household goods carrier and who used the carrier's services more than 50 times within the preceding 12
2 months.

3 (27) ~~[(32)]~~ Not-to-exceed proposal--A formal written offer stating the maximum price a
4 shipper can be required to pay for the transportation of specified household goods and any related
5 services. The offer may also state the non-binding approximate price. Any offer based on hourly rates
6 must state the maximum number of hours required for the transportation and related services unless
7 there is an acknowledgment from the shipper that the number of hours is not necessary.

8 (28) ~~[(33)]~~ Principal ~~[place of]~~ business address--A single location that serves as a motor
9 carrier's headquarters and where it maintains its operational records or can make them available.

10 (29) ~~[(34)]~~ Print advertisement--A written, graphic, or pictorial statement or
11 representation made in the course of soliciting intrastate household goods transportation services,
12 including, without limitation, a statement or representation made in or contained in a newspaper,
13 magazine, circular, or other publication. The term does not include direct communication between a
14 household goods carrier or carrier's representative and a prospective shipper, and does not include the
15 following:

16 (A) promotional items of nominal value such as ball caps, tee shirts, and pens;

17 (B) business cards;

18 (C) Internet websites;

19 (D) listings not paid for by the household goods carrier or its household goods
20 carrier's agent; and

21 (E) listings of a household goods carrier's business name or assumed name as it
22 appears on the motor carrier certificate of registration, and the household goods carrier's address, and
23 contact information in a directory or similar publication.

1 (30) ~~[(35)]~~ Public highway--Any publicly owned and maintained street, road, or highway
2 in this state.

3 ~~[(36) Reasonable dispatch--The performance of transportation, other than
4 transportation provided under guaranteed service dates, during the period of time agreed on by the
5 carrier and the shipper and shown on the shipment documentation. This definition does not affect the
6 availability to the carrier of the defense of force majeure.]~~

7 (31) ~~[(37)]~~ Replacement vehicle--A vehicle that takes the place of another vehicle that
8 has been removed from service.

9 (32) ~~[(38)]~~ Revocation--The withdrawal of registration and privileges by the department
10 or a registration state.

11 (33) ~~[(39)]~~ Shipper--The owner of household goods or the owner's representative.

12 (34) ~~[(40)]~~ Short-term lease--A lease of 30 days or less.

13 ~~[(41) SOAH--The State Office of Administrative Hearings.]~~

14 (35) ~~[(42)]~~ Substitute vehicle--A vehicle that is leased from a leasing business and that is
15 used as a temporary replacement for a vehicle that has been taken out of service for maintenance,
16 repair, or any other reason causing the temporary unavailability of the permanent vehicle.

17 (36) ~~[(43)]~~ Suspension--Temporary removal of privileges granted to a registrant by the
18 department or a registration state.

19 (37) ~~[(44)]~~ Unified Carrier Registration System or UCR--A motor vehicle registration
20 system established under 49 U.S.C. §14504a or a successor federal registration program.

21 (38) ~~[(45)]~~ USDOT--United States Department of Transportation.

22 (39) ~~[(46)]~~ USDOT number--An identification number issued by or under the authority of
23 the FMCSA or its successor.

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SUBCHAPTER B. MOTOR CARRIER REGISTRATION

43 TAC §§218.10, 218.11, 218.13, 218.14, 218.16, AND 218.18

STATUTORY AUTHORITY. The department proposes the amendments under Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §643.051, which states that a motor carrier may not operate a commercial motor vehicle, as defined by Transportation Code, §548.001, on a road or highway in Texas, and may not operate a vehicle, regardless of size, to transport household goods for compensation on a road or highway in Texas unless the motor carrier registers with the department under Subchapter B of Transportation Code, Chapter 643; Transportation Code, §643.052, which requires a motor carrier to submit to the department an application on a form prescribed by the department to register under Subchapter B of Transportation Code, Chapter 643, as well as the required components of the application, which include information the department by rule determines is necessary for the safe operation of a motor carrier under Transportation Code, Chapter 643; Transportation Code, §643.053, which provides additional requirements for an application filed with the department under Transportation Code, §643.052; Transportation Code, §643.054, which authorizes the department to deny an application for registration under certain circumstances, in addition to authorizing the department to adopt simplified procedures for the registration of motor carriers transporting household goods as agents for carriers required to register under Transportation Code, Chapter 643; Transportation Code, §643.056, which requires a motor carrier that is required to register under Subchapter B of Transportation Code, Chapter 643, to supplement the motor carrier’s application for registration under certain circumstances; Transportation Code, §643.058, which specifies the

1 requirements for a motor carrier to apply for renewal of registration issued under Subchapter B of
2 Transportation Code, Chapter 643, as well as the authority for the department to deny an application for
3 renewal of registration; Transportation Code, §643.0585, which specifies the requirements for a motor
4 carrier to apply for reregistration after its registration has been revoked, as well as the authority for the
5 department to deny an application for reregistration; Transportation Code, §643.061, which authorizes
6 the department to adopt rules to vary the registration period under Subchapter B of Transportation
7 Code, Chapter 643; Transportation Code, §643.062, which states that a foreign-based international
8 motor carrier that is required to register under Transportation Code, Chapter 643 or that is registered
9 under Transportation Code, Chapter 645 may not transport persons or cargo in intrastate commerce in
10 Texas; Transportation Code, §643.063, which authorizes the department to adopt rules that provide for
11 the operation of vehicles under a short-term lease under flexible procedures, which are designed to
12 avoid requiring a vehicle to be registered more than once in a calendar year and which allow a leasing
13 business to register a vehicle on behalf of a lessee; Transportation Code, §643.101(b), which authorizes
14 the department to adopt rules to set the amount of liability insurance that a motor carrier that is
15 required to register under Subchapter B of Transportation Code, Chapter 643 must maintain, at an
16 amount that does not exceed the amount required for a motor carrier under a federal regulation
17 adopted under 49 U.S.C. §13906(a)(1); Transportation Code, §643.102, which authorizes the
18 department to adopt rules to provide for a responsible system of self-insurance for a motor carrier;
19 Transportation Code, §643.103, which authorizes the department to charge a fee of \$100 when a motor
20 carrier that is required to register under Subchapter B of Transportation Code, Chapter 643 files
21 evidence of insurance in the amounts required by Transportation Code, §643.101 or §643.1015, or
22 evidence of financial responsibility as described by Transportation Code, §643.102, in a form prescribed
23 by the department; Transportation Code, §643.252, which authorizes the department to deny a

1 registration issued under Transportation Code, Chapter 643 under certain circumstances; Transportation
2 Code, §648.102, which authorizes the department to adopt rules that conform with 49 C.F.R. Part 387
3 requiring motor carriers operating foreign commercial motor vehicles in Texas to maintain financial
4 responsibility; Transportation Code, §1002.001, which authorizes the board to adopt rules that are
5 necessary and appropriate to implement the powers and duties of the department under the
6 Transportation Code and other laws of this state; Government Code, §2001.004, which requires state
7 agencies to adopt rules of practice stating the nature and requirements of all available formal and
8 informal procedures; Government Code, §2001.054, which specifies the requirements regarding the
9 grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license; and the statutory
10 authority referenced throughout this preamble and in the rule text, which is incorporated herein by
11 reference.

12 **CROSS REFERENCE TO STATUTE.** The proposed amendments implement Transportation Code, Chapter
13 643; and Government Code, Chapter 2001.

14
15 TEXT.

16 §218.10. Purpose.

17 ~~[Transportation Code, Chapter 643, provides that a motor carrier may not operate a commercial motor~~
18 ~~vehicle or transport household goods on a for-hire basis on a road or highway of this state unless the~~
19 ~~carrier registers with the department or is exempt from registration under Transportation Code,~~
20 ~~§643.002.] This subchapter prescribes the procedures by which a motor carrier, leasing business, or [for-~~
21 ~~hire transporter of] household goods carrier may register with the department, and sets out minimum~~
22 insurance requirements and minimum ~~[workers' compensation or]~~ accidental insurance requirements.

23

1 §218.11. Motor Carrier Registration.

2 (a) A motor carrier may not operate a commercial motor vehicle upon a public highway [~~the~~
3 ~~public roads or highways~~] of this state without first obtaining a certificate of registration issued by the
4 department as prescribed in this subchapter and a valid USDOT number.

5 (b) A household goods carrier may not operate a vehicle upon a public highway [~~the public roads~~
6 ~~or highways~~] of this state without first obtaining a certificate of registration issued by the department as
7 prescribed in this subchapter and a valid USDOT number.

8 (c) For the purposes of this subchapter, a valid USDOT number is an active USDOT number.

9

10 §218.13. Application for Motor Carrier Registration.

11 (a) Form of original application. An original application for motor carrier registration must be filed
12 electronically in the department's designated motor carrier registration system, [with the department's
13 ~~Motor Carrier Division and]~~ must be in the form prescribed by the director and must contain, at a
14 minimum, the following information and documents.

15 (1) USDOT number. A valid USDOT number issued to the applicant.

16 (2) Applicant information and documents. All applications must include the following
17 information and documents:

18 (A) The applicant's name, business type (e.g., sole proprietor, corporation, or
19 limited liability company), telephone number, email address, and Secretary of State file number, as
20 applicable. The applicant's name and email address must match the information the applicant provided
21 to FMCSA to obtain the USDOT number that the applicant provided in its application to the department.

22 (B) An application submitted by an entity, such as a corporation, general
23 partnership, limited liability company, limited liability corporation, limited partnership, or partnership,

1 must include the entity's Texas Comptroller's Taxpayer Number or the entity's Federal Employer
2 Identification Number.

3 (C) A legible and accurate electronic image of each applicable required document:

4 (i) The certificate of filing, certificate of incorporation, or certificate of
5 registration on file with the Texas Secretary of State; and

6 (ii) each assumed name certificate on file with the Secretary of State or
7 county clerk.

8 (3) Information and documents regarding applicant's owners, representatives, and
9 affiliates. All applications must include the following information and documents on the applicant's
10 owners, representatives, and affiliates, as applicable:

11 (A) The contact name, email address, and telephone number of the person
12 submitting the application. An authorized representative of the applicant who files an application with
13 the department on behalf of an applicant may be required to provide written proof of authority to act on
14 behalf of the applicant.

15 (B) The name, social security number or Individual Taxpayer Identification
16 Number (to the extent the natural person is authorized by law to obtain one of these numbers), date of
17 birth, business address, and ownership percentage for each owner, partner, member, or principal if the
18 applicant is not a publicly traded company.

19 (C) The name, social security number or Individual Taxpayer Identification
20 Number (to the extent the natural person is authorized by law to obtain one of these numbers), date of
21 birth, and business address for the following if the applicant is owned in full or in part by a legal entity:

22 (i) each officer, director, or trustee authorized to act on behalf of the
23 applicant; and

1 (ii) each manager or representative who has or exercises authority to
2 direct some or all of the applicant’s operational policy regarding compliance with applicable laws
3 regarding a motor carrier, excluding sales functions, on behalf of the applicant.

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

6 (E) The name, social security number or Individual Taxpayer Identification
7 Number (to the extent the natural person is authorized by law to obtain one of these numbers), date of
8 birth, and business address for each person who serves or will serve as the applicant’s manager, operator,
9 or representative who has or exercises authority to direct some or all of the applicant’s operational policy
10 regarding compliance with applicable laws regarding a motor carrier, excluding sales functions.

11 (F) A legible and accurate electronic image of at least one of the following
12 unexpired identity documents for each natural person identified in the application:

13 (i) a driver license issued by a state or territory of the United States. If the
14 driver license was issued by the Texas Department of Public Safety, the image must also include the audit
15 number listed on the Texas driver license;

16 (ii) Texas identification Card issued by the Texas Department of Public
17 Safety under Transportation Code, Chapter 521, Subchapter E, or an identification certificate issued by a
18 state or territory of the United States;

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

21 (iv) United States passport; or

22 (v) United States military identification.

1 ~~[(2) Business or trade name. The applicant must designate the business or trade name of~~
2 ~~the motor carrier.]~~

3 ~~[(3) Owner name. If the motor carrier is a sole proprietorship, the owner must indicate the~~
4 ~~name and social security number of the owner. A partnership must indicate the partners' names, and a~~
5 ~~corporation or other entity must indicate principal officers and titles.]~~

6 (4) Principal business address and mailing address. The applicant must provide the
7 applicant's ~~[Physical address of principal place of business. A motor carrier must disclose the motor~~
8 ~~carrier's]~~ principal business address, which must be a physical address. If the mailing address is different
9 from the principal business address, the applicant must also provide the applicant's mailing address ~~[must~~
10 ~~also be disclosed].~~

11 (5) Legal agent.

12 (A) A Texas-domiciled motor carrier must provide the name, telephone number,
13 and address of a legal agent for service of process if the agent is different from the motor carrier.

14 (B) A motor carrier domiciled outside Texas must provide the name, telephone
15 number, and Texas address of the legal agent for service of process.

16 (C) A legal agent for service of process shall be a Texas resident, a domestic
17 corporation, or a foreign corporation authorized to transact business in Texas with a Texas physical
18 address, rather than a post office box, for service of process.

19 (6) Description of vehicles. An application must include a motor carrier equipment report
20 identifying each ~~[commercial]~~ motor vehicle that requires registration and that the carrier proposes to
21 operate. Each ~~[commercial]~~ motor vehicle must be identified by its ~~[motor]~~ vehicle identification number,
22 make, model year, and type of cargo and by the unit number assigned to the ~~[commercial]~~ motor vehicle

1 by the motor carrier. Any subsequent registration of vehicles must be made under subsection (e) of this
2 section.

3 (7) Type of motor carrier operations. An applicant must state if the applicant proposes to
4 transport passengers, household goods, or hazardous materials. [;]

5 [~~(A) proposes to transport passengers, household goods, or hazardous materials;~~
6 ~~or~~]

7 [~~(B) is domiciled in a foreign country.~~]

8 (8) Insurance coverage. An applicant must indicate insurance coverage as required by
9 §218.16 of this title (relating to Insurance Requirements).

10 (9) Safety certification. Each motor carrier must complete, as part of the application, a
11 certification stating that the motor carrier knows and will conduct operations in accordance with all
12 federal and state safety regulations.

13 (10) Drug-testing certification. Each motor carrier must certify, as part of the application,
14 that the motor carrier is in compliance with the drug-testing requirements of 49 C.F.R. Part 382. If the
15 motor carrier belongs to a consortium, as defined by 49 C.F.R. Part 382, the applicant must provide the
16 names of the persons operating the consortium.

17 (11) Duration of registration.

18 (A) An applicant must indicate the duration of the desired registration. Except as
19 provided otherwise in this section, registration may be for seven calendar days, 90 calendar days, one
20 year, or two years. The duration of registration chosen by the applicant will be applied to all vehicles.

21 (i) Household goods carriers may not obtain seven-day or 90-day
22 certificates of registration.

1 (ii) Motor carriers that transport passengers in a commercial motor
2 vehicle as defined by Transportation Code, §548.001(1)(B) [~~§218.2(8)(A)(ii) of this title (relating to~~
3 ~~Definitions)~~] may not obtain seven-day or 90-day certificates of registration, unless approved by the
4 director.

5 (B) Interstate motor carriers that operate in intrastate commerce and meet the
6 requirements under §218.14(c) of this title (relating to Expiration and Renewal of Commercial Motor
7 Vehicles Registration) are not required to renew a certificate of registration issued under this section.

8 (12) Additional requirements. The following fees, documents, and information must be
9 submitted with the application. [~~all applications.~~]

10 (A) An application must be accompanied by an application fee of:

11 (i) \$100 for annual and biennial registrations;

12 (ii) \$25 for 90-day registrations; or

13 (iii) \$5 for seven-day registrations.

14 (B) An application must be accompanied by a vehicle registration fee of:

15 (i) \$10 for each vehicle that the motor carrier proposes to operate under
16 a seven-day, 90-day, or annual registration; or

17 (ii) \$20 for each vehicle that the motor carrier proposes to operate under
18 a biennial registration.

19 (C) An application must be accompanied by proof of insurance or financial
20 responsibility and the insurance filing fee as required by §218.16.

21 [~~(D) An application must include the applicant's business telephone number,~~
22 ~~email address, and any cell phone number.~~]

1 (D) [(E)] An application must include the completed New Applicant Questionnaire
2 (Applicant Questionnaire), which consists of questions and requirements, such as the following:

3 (i) Have you ever had another motor carrier certificate of registration
4 number issued by the department in the three years prior to the date of this application? If your answer
5 is yes, provide the certificate of registration number for the motor carrier(s). In the Applicant
6 Questionnaire, the word “you” means the applicant or any business that is operated, managed, or
7 otherwise controlled by or affiliated with the applicant or a family member, corporate officer, manager,
8 operator, or owner (if the business is not a publicly traded company) of the applicant. In the Applicant
9 Questionnaire, the word “manager” means a person who has or exercises authority to direct some or all
10 of the applicant’s operational policy regarding compliance with applicable laws regarding a motor carrier,
11 excluding sales functions.

12 (ii) Have you had a Compliance Review or a New Entrant Audit by the
13 Texas Department of Public Safety that resulted in an Unsatisfactory Safety Rating in the three years prior
14 to the date of your application? If your answer is yes, provide the USDOT number(s) and the certificate of
15 registration number(s) issued by the department.

16 (iii) Are you currently under an Order to Cease from the Texas
17 Department of Public Safety? If your answer is yes, provide the motor carrier’s USDOT number(s) and the
18 Carrier Profile Number(s). The Texas Department of Public Safety assigns a Carrier Profile Number (CP#)
19 when they perform a compliance review on a motor carrier’s operations to determine whether the motor
20 carrier meets the safety fitness standards.

21 (iv) Are you related to another motor carrier, or have you been related to
22 another motor carrier within the three years prior to the date of your application? The relationship may
23 be through a person (including a family member), corporate officer, or partner who also operates or has

1 operated as a motor carrier in Texas. If your answer is yes, state how you are related and provide the
2 motor carrier's name and the motor carrier's USDOT number, or the certificate of registration number
3 issued by the department for each related motor carrier.

4 (v) Do you currently owe any administrative penalties to the department,
5 regardless of when the final order was issued to assess the administrative penalties? If your answer is yes,
6 provide the following information under which the administrative penalties were assessed:

7 (I) department's notice number(s); and

8 (II) the motor carrier's USDOT number and certificate of registration
9 number issued by the department;

10 (vi) Name and title of person completing the Applicant Questionnaire;
11 and

12 (vii) Is the person completing the Applicant Questionnaire an authorized
13 representative of the applicant? If your answer is yes, please add the person's name, job title, phone
14 number, and address.

15 (E) An applicant must state if the applicant is domiciled in a foreign country.

16 (F) An application must include a certification that the information and
17 documents provided in the application are true and correct and that the applicant complied with the
18 application requirements under Chapter 218 of this title (relating to Motor Carriers) and Transportation
19 Code, Chapter 643.

20 [(F)An application submitted by an individual must include the number from one
21 of the following forms of identification, as well as a copy of the identification document:}]

1 ~~[(i) an unexpired driver's license issued by a state or territory of the United~~
2 ~~States. If the driver's license was issued by the Department of Public Safety, the application must also~~
3 ~~include the audit number listed on the driver's license;]~~

4 ~~[(ii) an unexpired identification certificate issued by a state or territory~~
5 ~~of the United States; or]~~

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

9 ~~[(G) An application submitted by an individual or entity with an assumed name must be~~
10 ~~accompanied by supporting documents regarding the assumed name, such as an assumed name filing in~~
11 ~~the county of proposed operation.]~~

12 ~~[(H) An application submitted by an entity, such as a corporation, general partnership,~~
13 ~~limited liability company, limited liability corporation, limited partnership, or partnership, must include~~
14 ~~the entity's Texas Comptroller's Taxpayer Number or the entity's Federal Employer Identification~~
15 ~~Number.]~~

16 [(G) [(H)] An application must be accompanied by any other information and documents
17 required by the department to evaluate the application under current law, including board rules.

18 (13) Additional requirements for household goods carriers. The following information,
19 documents, and certification must be submitted with all applications by household goods carriers:

20 (A) A copy of the tariff that sets out the maximum charges for transportation of
21 household goods, or a copy of the tariff governing interstate transportation services. If an applicant is
22 governed by a tariff that its association has already filed with the department under §218.65 of this title

1 (relating to Tariff Registration), the applicant complies with the requirement in this subparagraph by
2 checking the applicable box on the application to identify the association's tariff.

3 (B) If the motor vehicle is not titled in the name of the household goods carrier,
4 the following lease information and documentation, notwithstanding §218.18(a) of this title (relating to
5 Short-term Lease and Substitute Vehicles):

6 (i) a copy of a valid lease agreement for each motor vehicle that the
7 household goods carrier will operate; and

8 (ii) the name of the lessor and their USDOT number for each motor
9 vehicle leased to the household goods carrier under a short-term lease.

10 (C) A certification that the household goods carrier has procedures that comply
11 with Code of Criminal Procedure, Article 62.063(b)(3), which prohibits certain people who are required to
12 register as a sex offender from providing moving services in the residence of another person without
13 supervision.

14 (14) Additional requirements for passenger carriers. The following information and
15 documents must be submitted with all applications for motor carriers that transport passengers in a
16 commercial motor vehicle as defined by Transportation Code, §548.001(1)(B) [~~§218.2(8)(A)(ii)~~ of this
17 title]:

18 (A) If the commercial motor vehicle is titled in the name of the motor carrier, a
19 copy of the International Registration Plan registration receipt or a copy of the front and back of the title
20 for each commercial motor vehicle; or

21 (B) If the commercial motor vehicle is not titled in the name of the motor carrier,
22 the following lease information and documentation, notwithstanding §218.18(a) of this title:

1 (i) A copy of a valid lease agreement for each commercial motor vehicle;

2 and

3 (ii) The name of the lessor and their USDOT number for each commercial
4 motor vehicle [~~vehicles~~] leased to the motor carrier under a short-term lease.

5 (b) Conditional acceptance of application. If an application has been conditionally accepted by the
6 director pursuant to Transportation Code, §643.055, the applicant may not operate the following until
7 the department has issued a certificate under Transportation Code, §643.054:

8 (1) a commercial motor vehicle or any other motor vehicle to transport household goods
9 for compensation, or

10 (2) a commercial motor vehicle to transport persons or cargo.

11 (c) Approved application. An applicant meeting the requirements of this section and whose
12 registration is approved shall [~~will~~] be issued the following documents:

13 (1) Certificate of registration. The department shall [~~will~~] issue a certificate of registration.
14 The certificate of registration shall [~~will~~] contain the name and address of the motor carrier and a single
15 registration number, regardless of the number of vehicles requiring registration that the carrier operates.

16 (2) Insurance cab card. The department shall [~~will~~] issue an insurance cab card listing all
17 vehicles to be operated under the carrier's certificate of registration. The insurance cab card shall be
18 continuously maintained at the motor carrier's [~~registrant's~~] principal [~~place of~~] business address. The
19 insurance cab card shall [~~will~~] be valid for the same period as the motor carrier's certificate of registration
20 and shall [~~will~~] contain information regarding each vehicle registered by the motor carrier.

21 (A) A current copy of the page of the insurance cab card on which the vehicle is
22 shown shall be maintained in each vehicle listed, unless the motor carrier chooses to maintain a legible
23 and accurate image of the insurance cab card on a wireless communication device in the vehicle or

1 chooses to display such information on a wireless communication device by accessing the department's
2 online system from the vehicle. The appropriate information concerning that vehicle shall be highlighted
3 if the motor carrier chooses to maintain a hard copy of the insurance cab card or chooses to display an
4 image of the insurance cab card on a wireless communication device in the vehicle. The insurance cab
5 card or the display of such information on a wireless communications device shall [~~will~~] serve as proof of
6 insurance as long as the motor carrier has continuous insurance or financial responsibility on file with the
7 department.

8 (B) On demand by a department investigator or any other authorized government
9 personnel, the driver shall present the highlighted page of the insurance cab card that is maintained in
10 the vehicle or that is displayed on a wireless communication device in the vehicle. If the motor carrier
11 chooses to display the information on a wireless communication device by accessing the department's
12 online system, the driver shall [~~must~~] locate the vehicle in the department's online system upon request
13 by the department-certified inspector or other authorized government personnel.

14 (C) The motor carrier shall notify the department in writing if it discontinues use
15 of a registered [~~commercial~~] motor vehicle before the expiration of its insurance cab card.

16 (D) Any erasure or alteration of an insurance cab card that the department
17 printed out for the motor carrier renders it void.

18 (E) If an insurance cab card is lost, stolen, destroyed, or mutilated; if it becomes
19 illegible; or if it otherwise needs to be replaced, the department shall [~~will~~] print out a new insurance cab
20 card at the request of the motor carrier. Motor carriers are authorized to print out a copy of a new
21 insurance cab card using the department's online system.

22 (F) The department is not responsible for a motor carrier's inability to access the
23 insurance cab card [~~information~~] using the department's online system.

1 ~~[(G) The display of an image of the insurance card or the display of insurance~~
2 ~~information from the department's online system via a wireless communication device by the motor~~
3 ~~carrier does not constitute effective consent for a law enforcement officer, the department investigator,~~
4 ~~or any other person to access any other content of the wireless communication device.]~~

5 (d) Additional and replacement vehicles. A motor carrier required to obtain a certificate of
6 registration under this section shall not operate additional vehicles unless the carrier identifies the
7 vehicles on a form prescribed by the director and pays applicable fees as described in this subsection.

8 (1) Additional vehicles. To add a vehicle, a motor carrier must pay a fee of \$10 for each
9 additional vehicle that the motor carrier proposes to operate under a seven-day, 90-day, or annual
10 registration. To add a vehicle during the first year of a biennial registration, a motor carrier must pay a fee
11 of \$20 for each vehicle. To add a vehicle during the second year of a biennial registration, a motor carrier
12 must pay a fee of \$10 for each vehicle.

13 (2) Replacement vehicles. No fee is required for a vehicle that is replacing a vehicle for
14 which the fee was previously paid. Before the replacement vehicle is put into operation, the motor carrier
15 must ~~shall~~ notify the department, identify the vehicle being taken out of service, and identify the
16 replacement vehicle on a form prescribed by the department. A motor carrier registered under seven-day
17 registration may not replace vehicles.

18 (e) Supplement to original application. A motor carrier required to register under this section shall
19 electronically file in the department's designated motor carrier registration system ~~submit~~ a
20 supplemental application under the following circumstances.

21 (1) Change of cargo. A registered motor carrier may not begin transporting household
22 goods or hazardous materials unless the carrier submits a supplemental application to the department

1 and shows the department evidence of insurance or financial responsibility in the amounts specified by
2 §218.16.

3 (2) Change of name. A motor carrier that changes its name shall file a supplemental
4 application for registration no later than the effective date of the change. The motor carrier shall include
5 evidence of insurance or financial responsibility in the new name and in the amounts specified by §218.16.

6 A motor carrier that is a corporation must have its name change approved by the Texas Secretary of State
7 before filing a supplemental application. A motor carrier incorporated outside the state of Texas must
8 complete the name change under the law of its state of incorporation before filing a supplemental
9 application.

10 (3) Change of address or legal agent for service of process. A motor carrier shall file a
11 supplemental application for any change of address or any change of its legal agent for service of process
12 no later than the effective date of the change. The address most recently filed will be presumed
13 conclusively to be the current address.

14 (4) Change in principal officers and titles. A motor carrier that is a corporation shall file a
15 supplemental application for any change in the principal officers and titles no later than the effective date
16 of the change.

17 (5) Conversion of corporate structure. A motor carrier that has successfully completed a
18 corporate conversion involving a change in the name of the corporation shall file a supplemental
19 application for registration and evidence of insurance or financial responsibility reflecting the new
20 company name. The conversion must be approved by the Office of the Secretary of State before the
21 supplemental application is filed.

1 (6) Change in drug-testing consortium status. A motor carrier that changes consortium
2 status shall file a supplemental application that includes the names of the persons operating the
3 consortium.

4 (7) Retaining a revoked or suspended certificate of registration number. A motor carrier
5 may retain a prior certificate of registration number by:

6 (A) filing a supplemental application to reregister [~~re-register~~] instead of filing an
7 original application; and

8 (B) providing adequate evidence that the carrier has satisfactorily resolved the
9 issue [~~facts~~] that gave rise to the suspension or revocation.

10 (f) Change of ownership. A motor carrier must file an original application for registration when
11 there is a corporate merger or a change in the ownership of a sole proprietorship or of a partnership.

12 (g) Alternative vehicle registration for household goods agents. To avoid multiple registrations of
13 a [~~commercial~~] motor vehicle, a household goods agent's vehicles may be registered under the motor
14 carrier's certificate of registration under this subsection.

15 (1) The carrier must notify the department on a form approved by the director of its intent
16 to register its agent's vehicles under this subsection.

17 (2) When a carrier registers vehicles under this subsection, the carrier's certificate shall
18 [~~will~~] include all vehicles registered under its agent's certificates of registration. The carrier must register
19 under its certificate of registration all vehicles operated on its behalf that do not appear on its agent's
20 certificate of registration.

21 (3) The department may send the carrier a copy of any notification sent to the agent
22 concerning circumstances that could lead to denial, suspension, or revocation of the agent's certificate.

1 (h) Substitute vehicles leased from leasing businesses. A registered motor carrier is not required
2 to comply with the provisions of subsection (e) of this section for a substitute vehicle leased from a
3 business registered under §218.18 of this title (relating to Short-term Lease and Substitute Vehicles). A
4 motor carrier is not required to carry proof of registration as described in subsection (d) of this section if
5 a copy of the lease agreement for the originally leased vehicle is carried in the cab of the temporary
6 replacement vehicle.

7 (i) Once the motor carrier obtains a certificate of registration, the motor carrier shall update ~~must~~
8 ~~review~~ its principal business address, mailing address, and email address in the department's online
9 system within 30 days of a change to the information. ~~every six months and shall update such information~~
10 ~~if it is no longer correct.~~

11

12 §218.14. Expiration and Renewal of ~~Commercial~~ Motor Vehicle Registration.

13 (a) Expiration and renewal dates.

14 (1) A motor carrier with annual or biennial registration shall ~~will~~ be assigned a date for
15 the expiration and renewal of its motor carrier registration according to the last digit of the carrier's
16 certificate of registration number, as outlined in the following chart:

17 Attached Graphic

18 (2) 90-day ~~90-day~~ certificates of registration are valid for 90 calendar days from the
19 effective date.

20 (3) Seven-day ~~Seven-day~~ certificates of registration are valid for seven calendar days
21 from the effective date.

22 (b) Registration renewal.

1 (1) At least 30 [~~Approximately 60~~] days before the expiration of registration, the
2 department shall [~~will~~] mail or send electronically a renewal notice to each registered motor carrier with
3 annual or biennial registration. The notice shall [~~will~~] be sent [~~mailed~~] to the carrier's last known address
4 according to the Motor Carrier Division's [~~division's~~] records. Failure to receive the notice does not relieve
5 the registrant of the responsibility to renew. [~~A motor carrier must ensure that the department receives~~
6 ~~the renewal at least 15 days prior to the renewal date specified in subsection (a) of this section.~~] A
7 supplement to an application for motor carrier registration renewal must be filed electronically in the
8 department's designated motor carrier registration system and must:

9 (A) supply any new information and documents required under §218.13(e) of this
10 title (relating to Application for Motor Carrier Registration) if the information or documents have [~~has~~]
11 not previously been provided [~~supplied~~] to the department; and

12 (B) include a \$10 fee for each vehicle that the carrier operates under an annual
13 certificate of registration and a \$20 fee for each vehicle that the carrier operates under a biennial
14 certificate of registration.

15 (2) Seven-day [~~Seven-day~~] and 90-day [~~90-day~~] registrations may not be renewed.

16 (3) A motor carrier shall maintain continuous insurance or evidence of financial
17 responsibility in an amount at least equal to the amount prescribed under §218.16 of this title (relating to
18 Insurance Requirements).

19 (4) The insurance cab card issued to a motor carrier is valid for the same period as the
20 motor carrier's certificate of registration.

21 (5) To renew registration after it has expired, a motor carrier must file a supplemental
22 application electronically in the department's designated motor carrier registration system within 180
23 days after the registration expiration and must include the following information, documents, and fees:

1 (A) identify its vehicles on a form prescribed by the director; ~~[r]~~
2 (B) pay all vehicle fees; ~~[r]~~ and
3 (C) if current proof of insurance or evidence of financial responsibility is not on
4 file with the department, comply with ~~[division, meet]~~ all insurance requirements.

5 (c) Interstate motor carrier operating in intrastate commerce.

6 (1) An interstate motor carrier registered under §218.17 of this title (relating to Unified
7 Carrier Registration System) is not required to renew a certificate of registration issued under §218.11 of
8 this title (relating to Motor Carrier Registration) except when the motor carrier is operating as a

9 (A) non-charter bus carrier;

10 (B) household goods carrier; or

11 (C) recyclable materials or waste carrier.

12 (2) If a motor carrier that registered under §218.17 does not maintain continuous motor
13 carrier registration under §218.11, the motor carrier must file a supplemental application to reregister
14 ~~[re-register]~~ under §218.13 to operate on a public highway ~~[public streets and highways]~~ in this state.

15 (3) The motor carrier must notify the department if the motor carrier is registered under
16 UCR. The notification must be filed with the department on a form prescribed by the department. Once
17 the department receives the notification, the department shall ~~[will]~~ convert the motor carrier's certificate
18 of registration to a non-expiring certificate of registration if the motor carrier qualifies for a non-expiring
19 certificate of registration.

20 (4) If the department issues the motor carrier a non-expiring certificate of registration,
21 the motor carrier shall ~~[must]~~ notify the department if the motor carrier is no longer registered under UCR
22 or if the motor carrier operates as a non-charter bus carrier, household goods carrier, or recyclable

1 materials or waste carrier. The notification shall ~~[must]~~ be filed with the department on a form prescribed
2 by the department.

3

4 §218.16. Insurance Requirements.

5 (a) Automobile liability insurance requirements. A motor carrier must file proof of ~~[commercial]~~
6 automobile liability insurance with the department on a form acceptable to the director for each vehicle
7 required to be registered under this subchapter. The motor carrier shall ~~[must]~~ carry and maintain
8 automobile liability insurance that is combined single limit liability for bodily injury to or death of an
9 individual per occurrence, and loss or damage to property (excluding cargo) per occurrence~~[-, or both].~~

10 Extraneous information will not be considered acceptable, and the department may reject proof of
11 ~~[commercial]~~ automobile liability insurance if it is provided in a format that includes information beyond
12 what is required. Minimum insurance levels are indicated in the following table. However, a motor
13 carrier that is required to register with the department under Transportation Code, Chapter 643 that
14 operates a foreign commercial motor vehicle must comply with the minimum level of financial
15 responsibility in 49 C.F.R. Part 387 to the extent Part 387 prescribes a higher level of financial
16 responsibility than the following table. The department adopts by reference 49 C.F.R. Part 387 regarding
17 the required level of financial responsibility, including any amendments that became effective through
18 July 1, 2024. ~~[Effective October 23, 2015, the department adopts by reference the amendments to 49~~
19 ~~C.F.R. Part 387 with an effective date of October 23, 2015.]~~

20 Attached Graphic

21 (b) Cargo insurance. Household goods carriers shall file and maintain with the department proof
22 of financial responsibility.

23 (1) The minimum limits of financial responsibility for a household goods carrier ~~[for hire]~~

1 is \$5,000 for loss or damage to a single shipper's cargo carried on any one motor vehicle.

2 (2) The minimum limits of financial responsibility for a household goods carrier [~~for hire~~]

3 is \$10,000 for aggregate loss or damage to multiple shippers' [~~shipper~~] cargo carried on any one motor

4 vehicle. In cases in which multiple shippers sustain damage and the aggregate amount of cargo damage

5 is greater than the cargo insurance in force, the insurance company shall prorate the benefits among the

6 shippers in relationship to the damage incurred by each shipper.

7 (c) Workers' compensation or accidental insurance coverage.

8 (1) A motor carrier that is required to register under this subchapter and whose primary

9 business is transportation for compensation or hire between two or more municipalities [~~incorporated~~

10 ~~cities, towns, or villages~~] shall provide workers' compensation for all its employees or accidental

11 insurance coverage in the amounts prescribed in paragraph (2) of this subsection.

12 (2) Accidental insurance coverage required by paragraph (1) of this subsection shall be

13 at least in the following amounts:

14 (A) \$300,000 for medical expenses [~~and coverage~~] for at least 104 weeks;

15 (B) \$100,000 for accidental death and dismemberment;

16 (C) [~~including~~] 70 percent of the employee's pre-injury income for not less than

17 104 weeks when compensating for loss of income; and

18 (D) [~~(C)~~] \$500 for the maximum weekly benefit.

19 (d) Qualification of motor carrier as self-insured motor carrier.

20 (1) General qualifications. A motor carrier may meet the insurance requirements of

21 subsections (a) and (b) of this section by filing an application, in a form prescribed by the department, to

22 qualify as a self-insured motor carrier. The application must include a true and accurate statement of

23 the motor carrier's financial condition and other evidence that establishes its ability to satisfy

1 obligations for bodily injury and property damage liability, or cargo liability, if applicable, without
2 affecting the stability or permanency of its business. The department may accept USDOT evidence of the
3 motor carrier's qualifications as a self-insured motor carrier.

4 (2) Applicant guidelines. In addition to filing an application as prescribed by the
5 department, an applicant for self-insured status must submit information and documents [~~materials~~]
6 that will enable [~~allow~~] the department to determine the following information.

7 (A) Applicant's net worth. An applicant's net worth must be adequate in relation
8 to the size of its operations and the extent of its request for self-insurance authority. The applicant must
9 demonstrate that it can and will maintain an adequate net worth.

10 (B) Self-insurance program. An applicant must demonstrate that it has
11 established and shall [~~will~~] maintain a sound insurance program that will protect the public against all
12 claims involving motor vehicles to the same extent as the minimum insurance levels [~~security limits~~]
13 applicable under this section. In determining whether an applicant is maintaining a sound insurance
14 program, the department shall [~~will~~] consider:

- 15 (i) reserves;
- 16 (ii) sinking funds;
- 17 (iii) third-party financial guarantees;
- 18 (iv) parent company or affiliate sureties;
- 19 (v) excess insurance coverage; and
- 20 (vi) other appropriate aspects of the applicant's program.

21 (C) Safety program. An applicant must submit evidence of a current
22 "satisfactory" safety rating from the Texas Department of Public Safety under Transportation Code,
23 Chapter 644 and administrative rules adopted under [~~substantial compliance with the federal motor~~

1 ~~carrier safety regulations as adopted by the Texas Department of Public Safety and with] Transportation~~
2 ~~Code, Chapter 644 or a “satisfactory” safety rating from FMCSA under federal law. An application by a~~
3 ~~motor carrier with less than a current “satisfactory” safety rating or no safety rating will be summarily~~
4 ~~denied.~~

5 (3) Other securities or agreements. The department may accept an application for
6 approval of a security or agreement if satisfied that the security or agreement offered will adequately
7 protect the public.

8 (4) Periodic reports. An approved self-insured motor carrier [applicant] shall file with the
9 department annual statements ~~[, semi-annual and quarterly reports,]~~ and any ~~[other]~~ reports required
10 by the department reflecting the motor carrier’s [applicant’s] financial condition and the status of its
11 self-insurance program while the motor carrier is self-insured.

12 (5) Duration and coverage of self-insured status. The department may approve an
13 applicant as a self-insured motor carrier for any specific time or for an indefinite time. An approved self-
14 insured status only applies to the type of cargo that the motor carrier [applicant] reported to the
15 department in the application for self-insured status, and is subject to any limitations, restrictions, or
16 requirements that the department includes in any letter to approve self-insured status.

17 (6) Revocation of self-insured status. On receiving evidence that a self-insured motor
18 carrier's financial condition has changed, that its safety program or record is inadequate, or that it is
19 otherwise not in compliance with this subchapter, the department may at any time require the self-
20 insured motor carrier to provide additional information and documents. On 10 days' notice from the
21 department, the self-insured motor carrier shall provide the department with information and
22 documents, as applicable, that [appear and] demonstrate that it [continues to have adequate financial
23 resources to pay all claims involving motor vehicles for bodily injury and property damage liability. The

1 ~~self-insured shall also demonstrate that it~~ remains in compliance with the requirements of this section
2 and of any active self-insurance requirements included in the department's approval letter. If a motor
3 carrier ~~[an applicant]~~ fails to comply with the applicable requirements under this section, its self-insured
4 status may be revoked. The revocation of self-insured status will be governed by Chapter 224 of this title
5 (relating to Adjudicative Practice and Procedure) and Transportation Code, Chapter 643.

6 (7) Appeal of denial of application for self-insured status. An applicant may appeal a
7 denial of self-insured status by filing an appeal in accordance with §224.126 of this title (relating to
8 Appeal of a Denial of Self-Insured Status).

9 (e) Filing proof of insurance with the department.

10 (1) Forms.

11 (A) A motor carrier shall file and maintain proof of automobile liability insurance
12 for all vehicles required to be registered under this subchapter at all times. This proof shall be filed on a
13 form acceptable to the director.

14 (B) A household goods carrier shall also file and maintain proof of cargo
15 insurance for its cargo at all times. This proof shall be on a form acceptable to the director.

16 (2) Filing proof of insurance. A motor carrier's insurer shall file and maintain proof of
17 insurance on a form acceptable to the director:

18 (A) at the time of the original application for a motor carrier certificate of
19 registration;

20 (B) on or before the cancellation date of the insurance coverage as described in
21 subsection (f) of this section;

22 (C) when the motor carrier changes insurers;

23 (D) when the motor carrier asks to retain the certificate number of a revoked

1 certificate of registration;

2 (E) when the motor carrier changes its name under §218.13(e)(2) of this title

3 (relating to Application for Motor Carrier Registration);

4 (F) when the motor carrier, under subsection (a) of this section, changes the
5 classification of the cargo being transported; and

6 (G) when replacing another active insurance filing.

7 (3) Filing fee. Each certificate of insurance or proof of financial responsibility filed with
8 the department for the coverage required under this section must ~~shall~~ be accompanied by a
9 nonrefundable filing fee of \$100 ~~[. This fee applies both]~~ when the carrier submits an original application
10 and when the carrier submits a supplemental application when retaining a revoked certificate of
11 registration number.

12 (4) Acceptable filings. The motor carrier's insurer must file proof of insurance with the
13 department in a form prescribed by the department and approved by an authorized agent of the
14 insurer.

15 (f) Cancellation of insurance coverage. Except when replaced by another acceptable form of
16 insurance coverage or proof of financial responsibility approved by the department, ~~no~~ insurance
17 coverage may not ~~shall~~ be canceled or withdrawn until 30 days after notice has been given to the
18 department by the insurer in a form approved by the department. Nonetheless, proof of insurance
19 coverage for a seven-day ~~seven-day~~ or 90-day ~~90-day~~ certificate of registration may be canceled by
20 the insurer without 30 days' notice if the certificate of registration is expired, suspended, or revoked,
21 and the insurer provides a cancellation date on the proof of insurance coverage.

22 (g) Replacement insurance filing. The department shall ~~will~~ consider a new insurance filing as
23 the current record of financial responsibility required by this section if:

1 (1) the new insurance filing is received by the department; and

2 (2) a cancellation notice has not been received for previous insurance filings.

3 (h) Insolvency of insurance carrier. An affidavit required by Transportation Code, §643.105 must
4 be executed by an owner, partner, or officer of the motor carrier. [~~If the insurer of a motor carrier~~
5 ~~becomes insolvent or becomes involved in a receivership or other insolvency proceeding, the motor~~
6 ~~carrier must file an affidavit with the department. The affidavit must be executed by an owner, partner,~~
7 ~~or officer of the motor carrier and show that:]~~

8 [(1) ~~no collisions have occurred and no claims have arisen during the insolvency of the~~
9 ~~insurance carrier; or]~~

10 [(2) ~~all claims have been satisfied.~~]

11

12 §218.18. Short-term Lease and Substitute Vehicles.

13 (a) Registration. A short-term lease vehicle registered under this section is exempt from the
14 registration requirements described in §218.13 of this title (relating to Application for Motor Carrier
15 Registration) while leased to a registered motor carrier.

16 (1) Application. A leasing business registering vehicles under this section shall file an
17 application on a form prescribed by the director.

18 (2) Annual report. The operation of a short-term lease vehicle shall be reported to the
19 department on a form prescribed by the director not later than April 1 of each calendar year for the
20 previous calendar year's operations. The report must identify the number of short-term lease vehicles
21 that would otherwise be subject to the registration requirements of this subchapter.

22 (3) Fees. An annual registration fee of \$10 per vehicle operated must be paid at the time
23 the report is filed under paragraph (2) of this subsection.

1 (4) Cancellation, expiration, and revocation.

2 (A) A leasing business must make a written request for cancellation of
3 registration.

4 (B) A leasing business registration expires on April 30 of each year unless the
5 leasing business reports by April 1 the actual number of vehicles requiring registration operated in the
6 previous calendar year.

7 (C) The department may suspend or revoke a leasing business registration under
8 §218.72 of this title (relating to Administrative Sanctions).

9 (b) Proof of contingency liability insurance. A leasing business registering a vehicle under this
10 section must file and maintain proof of liability insurance on a form prescribed by the director as
11 required by §218.16 of this title (relating to Insurance Requirements).

12 (1) Filings. A leasing business shall file proof of insurance at the time of its initial
13 registration and whenever it changes insurance carriers in accordance with §218.16.

14 (2) Filing fee. Each proof of insurance filing under this section shall be accompanied by a
15 nonrefundable \$100 filing fee.

16 (3) Cancellation of insurance coverage. Any cancellation of insurance filed under this
17 section must comply with the requirements set out in §218.16.

18 (c) Substitute vehicles. A registered motor carrier is not required to comply with the provisions
19 of §218.13(d) for a vehicle that is leased from a leasing business and that is used as a temporary
20 replacement for a vehicle that has been taken out of service for maintenance, repair, or any other
21 reason causing the temporary unavailability of the permanent vehicle.

22 (d) Identification. A registered motor carrier is not required to carry proof of registration, as
23 required by §218.13(c)(2), in a vehicle leased from a registered leasing business under a short-term

1 lease. A copy of the lease agreement or of the lease for the originally leased vehicle, in the case of a
2 temporary replacement vehicle, must be carried in the cab of the vehicle.

3

4

SUBCHAPTER C. RECORDS AND INSPECTIONS

5

43 TAC §218.31 AND §218.32

6

7 **STATUTORY AUTHORITY.** The department proposes the amendments under Transportation Code,
8 §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter
9 643; Transportation Code, §643.051, which states that a motor carrier may not operate a commercial
10 motor vehicle, as defined by Transportation Code, §548.001, on a road or highway in Texas, and may not
11 operate a vehicle, regardless of size, to transport household goods for compensation on a road or
12 highway in Texas unless the motor carrier registers with the department under Subchapter B of
13 Transportation Code, Chapter 643; Transportation Code, §643.254, which authorizes the department to
14 investigate an alleged violation of Transportation Code, Chapter 643 or a rule or order adopted under
15 Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to
16 adopt rules that are necessary and appropriate to implement the powers and duties of the department
17 under the Transportation Code and other laws of this state; Government Code, §2001.004, which
18 requires state agencies to adopt rules of practice stating the nature and requirements of all available
19 formal and informal procedures; and the statutory authority referenced throughout this preamble and
20 in the rule text, which is incorporated herein by reference.

21 **CROSS REFERENCE TO STATUTE.** The proposed amendments implement Transportation Code, Chapter
22 643; and Government Code, Chapter 2001.

23

1 TEXT.

2 §218.31. Investigations and Inspections of Motor Carrier Records.

3 (a) Certification of department investigators. In accordance with Transportation Code, Chapter
4 643, the executive director or designee will designate department employees as certified for the
5 purpose of entering the premises of a motor carrier to copy or verify documents the motor carrier is
6 required to maintain according to this chapter. The executive director or designee shall provide
7 credentials to department investigators identifying them as department employees and as certified to
8 conduct investigations and inspect records on behalf of the department.

9 (b) Investigations and Inspections.

10 (1) A motor carrier shall grant a department investigator certified under this section
11 access to the carrier's premises to conduct inspections or investigations of alleged violations of this
12 chapter and of Transportation Code, Chapters 643 and 645. The motor carrier shall provide adequate
13 work space with reasonable working conditions and allow the department investigators to copy and
14 verify records and documents the motor carrier is required to maintain according to this chapter.

15 (2) The department investigator may conduct inspections and investigations during
16 normal business hours unless mutual arrangements have been made otherwise.

17 (3) The department investigator shall [~~will~~] present his or her credentials to the motor
18 carrier prior to conducting an investigation or inspection.

19 (c) Access. A motor carrier shall provide access to requested records and documents at:

20 (1) the motor carrier's principal [~~place of~~] business address; or

21 (2) a location agreed to by the department and the motor carrier.

22 (d) Designation of meeting time. If the motor carrier's normal business hours do not provide the
23 access necessary for the investigator to conduct the investigation and the parties cannot reach an

1 agreement as to a time to meet to access the records, the department shall designate the time of the
2 meeting and provide written notice via the business address, facsimile number, or email address on file
3 with the department.

4

5 §218.32. Motor Carrier Records.

6 (a) General records to be maintained. Every motor carrier shall prepare and maintain in a
7 complete and accurate manner:

8 (1) operational logs, insurance certificates, documents to verify the carrier's operations,
9 and proof of registration fee payments;

10 (2) records of services performed;

11 (3) all certificate of title documents, weight tickets, permits for oversize or overweight
12 vehicles and loads, dispatch records, or any other document that would verify the operations of the
13 vehicle to determine the actual weight, insurance coverage, size, and/or capacity of the vehicle; and

14 (4) the original certificate of registration and registration listing, if applicable.

15 (b) Proof of motor carrier registration.

16 (1) Except as provided in paragraph (2) of this subsection and in §218.13(c)(2) of this
17 title (relating to Application for Motor Carrier Registration), every motor carrier shall maintain a copy of
18 its current registration listing in the cab of each registered vehicle at all times. A motor carrier shall
19 make available to a department investigator or any law enforcement officer a copy of the current
20 registration listing upon request.

21 (2) A registered motor carrier is not required to carry proof of registration in a vehicle
22 leased from a leasing business that is registered under §218.18 of this title (relating to Short-term Lease
23 and Substitute Vehicles), when leased as a temporary replacement due to maintenance, repair, or other

1 unavailability of the originally leased vehicle. A copy of the lease agreement, or the lease for the
2 originally leased vehicle, in the case of a substitute vehicle, must be carried in the cab of the vehicle.

3 (3) A motor carrier is not required to carry proof of compliance with UCR or the UCR
4 plan or agreement in its vehicle.

5 (c) Location of files. Except as provided in this subsection, every motor carrier shall maintain at a
6 principal [~~place of~~] business address in Texas all records and information required by the department.

7 (1) Texas motor carriers. If a motor carrier wishes to maintain records at a specific
8 location other than its principal [~~place of~~] business address in Texas, the motor carrier shall make a
9 written request to the director. A motor carrier may not begin maintaining records at an alternate
10 location until the request is approved by the director.

11 (2) Out-of-state motor carriers. A motor carrier whose principal business address is
12 located outside the state of Texas shall maintain records required under this section at its business
13 location in Texas. Alternatively, a motor carrier may maintain such records at a specific out-of-state
14 facility if the carrier reimburses the department for necessary travel expenses and per diem for any
15 inspections or investigations conducted in accordance with §218.31 of this title (relating to
16 Investigations and Inspections of Motor Carrier Records).

17 (3) Regional office or driver work-reporting location. All records and documents
18 required by this subchapter which are maintained at a regional office or driver work-reporting location,
19 whether or not maintained in compliance with paragraphs (1) and (2) of this subsection, shall be made
20 available for inspection upon request at the motor carrier's principal [~~place of~~] business address or other
21 location specified by the department [~~Department~~] within 48 hours after a request is made. Saturdays,
22 Sundays, and federal and state holidays are excluded from the computation of the 48-hour period of
23 time [~~in accordance with 49 C.F.R. §390.29~~].

1 (d) Preservation and destruction of records. All books and records generated by a motor carrier,
2 except driver's time cards and logs, must be maintained for not less than two years at the motor
3 carrier's principal business address. A motor carrier must maintain driver's time cards and logs for not
4 less than six months at the carrier's principal business address.

5

6

SUBCHAPTER D. MOTOR TRANSPORTATION BROKERS

7

43 TAC §218.41

8

9 **STATUTORY AUTHORITY.** The department proposes the amendments under Transportation Code,
10 §646.003, which prohibits a person from acting as a motor transportation broker unless the person
11 provides a bond to the department; Transportation Code, §1002.001, which authorizes the board to adopt
12 rules that are necessary and appropriate to implement the powers and duties of the department under
13 the Transportation Code and other laws of this state; Government Code, §2001.004, which requires state
14 agencies to adopt rules of practice stating the nature and requirements of all available formal and informal
15 procedures; and the statutory authority referenced throughout this preamble and in the rule text, which
16 is incorporated herein by reference.

17 **CROSS REFERENCE TO STATUTE.** The proposed amendments implement Transportation Code, Chapter
18 646; and Government Code, Chapter 2001.

19

20 TEXT.

21 §218.41. Bond.

22 (a) Filing. A motor transportation broker shall file a bond with the department before it may act
23 as a motor transportation broker.

1 (b) Conditions of bond.

2 (1) The bond shall be:

3 (A) in an amount of at least \$10,000;

4 (B) executed by a bonding company authorized to do business in the state of
5 Texas; and

6 (C) payable to the State of Texas or a person to whom the motor transportation
7 broker provides services.

8 (2) The bond shall be conditioned upon:

9 (A) the faithful performance of the contracts or agreements of transportation by
10 the motor carrier or motor carriers for whom the motor transportation broker is acting, and which were
11 negotiated by the broker; and

12 (B) the honest and faithful performance by the motor transportation broker in
13 that capacity.

14 (3) The bond shall provide that all defenses available to the motor carrier shall be
15 available to the principal and surety, but no condition or provision of the bond shall otherwise affect the
16 right of the person to whom the motor transportation broker provides services [shipper] to collect all
17 damages to which the person [it] may be entitled at law.

18 (c) Expiration or cancellation of bond. The bond shall not expire or be subject to cancellation
19 until the 30th day after written notice of expiration or cancellation has been served on the principal and
20 the department, either personally or by certified mail. Unless the principal files a new bond in
21 compliance with the requirements of this section on or before the expiration of the 30-day period, the
22 person may not act as a motor transportation broker.

23 [~~(d) Amount of recovery. In no event shall the total of all recoveries under a bond exceed the~~

1 ~~penal amount.]~~

2

3

SUBCHAPTER E. CONSUMER PROTECTION

4

43 TAC §§218.53, 218.54, 218.56, 218.57, 218.58, 218.61, 218.62, 218.64, AND 218.65

5

6 **STATUTORY AUTHORITY.** The department proposes the amendments under Transportation Code,
7 §643.152, which authorizes the department to establish voluntary standards for uniform cargo liability
8 and uniform bills of lading or receipts for cargo, which standards must be consistent with Subtitle IV,
9 Title 49, United States Code, or a regulation adopted under that law; Transportation Code, §643.153,
10 which authorizes the department to adopt rules to protect a consumer using the service of a motor
11 carrier who is transporting household goods for compensation; and authorizes the department to adopt
12 rules that are necessary to ensure that a customer of a household goods carrier is protected from
13 deceptive or unfair practices and unreasonably hazardous activities; Transportation Code, §643.153(d),
14 which requires a household goods carrier that is required to register under Subchapter B of
15 Transportation Code, Chapter 643 to file a tariff with the department that establishes the maximum
16 charges for all transportation services; Transportation Code, §643.154(c), which authorizes the
17 department to adopt a rule to exempt a motor carrier that is required to register under Subchapter B of
18 Transportation Code, Chapter 643, from Chapter 15, Business and Commerce Code, for an activity
19 relating to the establishment of a joint line rate, route, classification, or mileage guide; Transportation
20 Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code,
21 Chapter 643; Transportation Code, §643.051, which states that a motor carrier may not operate a
22 vehicle, regardless of size, to transport household goods for compensation on a road or highway in
23 Texas unless the motor carrier registers with the department under Subchapter B of Transportation

1 Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to adopt rules that are
2 necessary and appropriate to implement the powers and duties of the department under the
3 Transportation Code and other laws of this state; Government Code, §2001.004, which requires state
4 agencies to adopt rules of practice stating the nature and requirements of all available formal and
5 informal procedures; and the statutory authority referenced throughout this preamble and in the rule
6 text, which is incorporated herein by reference.

7 **CROSS REFERENCE TO STATUTE.** The proposed amendments implement Transportation Code, Chapter
8 643; and Government Code, Chapter 2001.

9

10 TEXT.

11 §218.53. Household Goods Carrier Cargo Liability.

12 Pursuant to Transportation Code, §643.152, the voluntary standard for uniform cargo liability
13 for a household goods carrier can be found in 49 C.F.R. §375.201, which the department adopts by
14 reference, including any amendments that became effective through July 1, 2024.

15 ~~[(a) Unless the carrier and shipper agree in writing to a higher limit of carrier liability, a~~
16 ~~household goods carrier's liability for loss or damage of property shall be \$.60 per pound per article.~~
17 ~~Claims for loss or damage of property may be settled based on the weight of the article multiplied by~~
18 ~~\$.60.]~~

19 ~~[(b) If the carrier and shipper have agreed in writing to a higher limit of liability, the carrier may~~
20 ~~charge the shipper for this higher limit of liability. If the agreement between the carrier and shipper to a~~
21 ~~higher limit of liability provides for a deductible, the carrier's liability to pay for loss or damage of~~
22 ~~property will be reduced by the amount of the deductible.]~~

23

1 §218.54. Selling Insurance to Shippers.

2 (a) Type of insurance. A household goods carrier and its representatives may sell, or offer to sell,
3 or procure insurance for a shipper for transported or stored property. The insurance policy must cover
4 loss or damage in excess of the household goods carrier's [carrier] liability, if any, to which the parties
5 agree in the moving services contract, including a pre-existing transportation contract described by
6 §218.57(d) of this title (Relating to Moving Services Contract). [~~as specified in §218.53 of this title~~
7 ~~(relating to Household Goods Carrier Cargo Liability).~~]

8 (b) Policy issuance. A copy of the policy or other appropriate evidence of purchased insurance
9 must be issued to the shipper before the shipment is loaded.

10 (c) Policy language. Policies or other appropriate evidence of purchased insurance must be
11 written in a clear and concise manner, specifying the nature and extent of coverage including any
12 deductibles. The policies or other appropriate evidence of purchased insurance must also clearly
13 indicate:

14 (1) the name, address, and telephone number of the insurance company;

15 (2) the policy number; and

16 (3) a statement of whether claims are to be filed with the insurance company or with
17 the household goods carrier.

18 (d) Subject to Full Liability. [~~Penalty.~~] If the shipper purchased insurance from the household
19 goods carrier and the household goods carrier does not obtain the insurance policy or other appropriate
20 evidence of purchased insurance for the shipper, the household goods carrier shall be subject to full
21 liability for all of the loss or damage caused by the household goods carrier.

22

23 §218.56. Proposals and Estimates for Moving Services.

1 (a) Written proposals. Prior to loading, a household goods carrier shall provide a written
2 proposal, such as a bid or quote, to the shipper. A proposal shall state the maximum amount the shipper
3 could be required to pay for the listed transportation and listed related services. This section does not
4 apply if a pre-existing transportation contract sets out the maximum amount the shipper could be
5 required to pay for the transportation services. Pre-existing transportation contracts include, but are not
6 limited to, corporate contracts for the relocation of multiple employees.

7 (1) A proposal must contain the name and registration number of the household goods
8 carrier as they appear on the motor carrier certificate of registration. If a proposal is prepared by the
9 household goods carrier's agent, it shall include the name of the agent as listed on the carrier's agent
10 filing with the department. A proposal shall also include the street address of the household goods
11 carrier or its agent.

12 (2) A proposal must clearly and conspicuously state whether it is a binding or not-to-
13 exceed proposal.

14 (3) A proposal must completely describe the shipment and all services to be provided. A
15 proposal must state, "This proposal is for listed items and services only. Additional items and services
16 may result in additional costs."

17 (4) A proposal must specifically state when the shipper will be required to pay the
18 transportation charges, such as if payment must be made before unloading at the final destination. A
19 proposal must also state what form of payment is acceptable, such as a cashier's check.

20 (5) A proposal must conspicuously state the [that a] household goods carrier's liability, if
21 any, for loss or damage to cargo [~~is limited to \$.60 per pound per article unless the household goods~~
22 ~~carrier and shipper agree, in writing, to a higher limit of carrier liability].~~

23 (b) Hourly rates. If a proposal is based on an hourly rate, then it is not required to provide the

1 number of hours necessary to perform the transportation and related services. However, if the number
2 of hours is not included in a proposal, then the carrier must secure a written acknowledgment from the
3 shipper indicating the proposal is complete without the number of hours. Also, the proposal shall state
4 the maximum amount the shipper could be required to pay for the listed transportation and listed
5 related services.

6 (c) Proposal as addendum. If a proposal is accepted by the shipper and the carrier transports the
7 shipment, then the proposal is considered an addendum to the moving services contract.

8 (d) Additional items and services. If the household goods carrier determines additional items are
9 to be transported and/or additional services are required to load, transport, or deliver the shipment,
10 then before the carrier transports the additional items or performs the additional services the carrier
11 and shipper must agree, in writing, to:

- 12 (1) allow the original proposal to remain in effect;
13 (2) amend the original proposal or moving services contract; or
14 (3) substitute a new proposal for the original.

15 (e) Amendments and storage.

16 (1) An amendment to an original proposal or moving services contract, as allowed in
17 subsection (d) of this section, must:

- 18 (A) be signed and dated by the household goods carrier and shipper; and
19 (B) clearly and specifically state the amended maximum price for the
20 transportation of the household goods.

21 (2) If the household goods carrier fails to amend or substitute an original proposal as
22 required by this subsection and subsection (d) of this section, only the charges stated on the original
23 proposal for moving services may be assessed on the moving services contract. The carrier shall not

1 attempt to amend or substitute the proposal to add items or services after the items or services have
2 been provided or performed.

3 (3) If through no fault of the carrier, the shipment cannot be delivered during the agreed
4 delivery period, then the household goods carrier may place the shipment in storage and assess fees
5 relating to storage to the extent authorized in the moving services contract, [~~according to the terms in~~
6 ~~§218.58 of this title (relating to Moving Services Contract – Options for Carrier Limitation of Liability),]~~
7 without a written agreement with the shipper to amend or substitute the original proposal.

8 (f) Combination document. A proposal required by subsection (a) of this section may be
9 combined with other shipping documents, such as the moving services contract, into a single document.
10 If a proposal is combined with other shipping documents, the purpose of each signature line on the
11 combination document must be clearly indicated. Each signature is independent and shall not be
12 construed as an agreement to all portions and terms of the combination document.

13 (g) Telephone estimates. A household goods carrier may provide an estimate for the
14 transportation services by telephone. If the household goods carrier provides the estimate by
15 telephone, then the carrier must also furnish a written proposal for the transportation services to the
16 shipper prior to loading the shipment.

17 (h) Written document. To the extent this section requires a document or communication to be
18 in writing, the document or communication may be in a printed or electronic format.

19 (i) Signatures. The signatures of the shipper and household goods carrier, as required by this
20 section, may be transmitted by facsimile or other electronic means.

21

22 §218.57. Moving Services Contract.

23 (a) Requirements. A household goods carrier must give a copy of the moving services contract to

1 the shipper prior to the loading of the shipment. This copy must include:

2 (1) the name and motor carrier registration number of the household goods carrier as
3 they appear on the motor carrier certificate of registration, and the address and telephone number of
4 the household goods carrier or the household goods agent that prepared the moving services contract;

5 (2) the date the shipment is loaded and a description of the shipment as household
6 goods;

7 (3) the name and address of the shipper;

8 (4) the addresses of the:

9 (A) origin;

10 (B) destination, if known; and

11 (C) any stops in transit, if known;

12 (5) the moving services to be performed;

13 (6) a clear and concise disclosure of the limits of the household goods carrier's liability
14 for loss or damage to a shipper's household goods; however, the moving services contract must
15 expressly state if the household goods carrier's liability is \$0.00 for loss or damage to a shipper's
16 household goods;

17 (7) a clear and concise disclosure of any costs associated with an agreement regarding
18 the liability of the household goods carrier for loss or damage to a shipper's household goods, and a
19 statement that any agreement regarding the household goods carrier's liability is something different
20 than an insurance policy;

21 ~~[(6) the conspicuous statement, "A household goods carrier's liability for loss or damage~~
22 ~~to any shipment is \$.60 per pound per article, unless the carrier and shipper agree, in writing, to a~~
23 ~~greater level of liability.";~~]

1 ~~[(7) a conspicuous explanation of any agreement for increased carrier liability limit, the~~
2 ~~amount of increased carrier liability, the cost of the increased limit, any deductible above the carrier's~~
3 ~~\$.60 per pound per article liability, and the statement, "This is not insurance.";]~~

4 (8) a clear notice of the amount of any insurance for property that is transported or
5 stored, the amount of insurance premiums, and the insurance policy number, if insurance for the
6 shipment was purchased from or through the household goods carrier;

7 (9) a clear and conspicuous statement that this document is a contract for moving
8 services and is subject to the terms and conditions throughout the document, including any
9 attachments;

10 ~~[(9) the conspicuous statement, "This is a contract for moving services and is subject to~~
11 ~~the terms and conditions on the front and back of this document and any addendum.";]~~

12 (10) a description of whether the proposal is a binding or not-to-exceed proposal, and
13 the maximum price the shipper could be required to pay for the services listed;

14 (11) a statement authorizing performance of the listed services, signed and dated by the
15 household goods carrier and the shipper; ~~and~~

16 (12) a statement signed and dated by the shipper authorizing delivery of household
17 goods at a destination where the shipper is not present if the shipper intends for the household goods
18 carrier to deliver to a site where the shipper will not be present; and

19 (13) the following language regarding claims: "The process for filing a claim against a
20 household goods carrier and the claims procedures are provided on the website of the Texas
21 Department of Motor Vehicles (department), as well as in the department's administrative rule, 43
22 Texas Administrative Code §218.61 (relating to Claims). A shipper must file any claims against a
23 household goods carrier within 90 days of the delivery of the shipment to the final destination, or after a

1 reasonable time for delivery has elapsed in the case of failure to make delivery.”

2 (b) Delivery. A household goods carrier must give a completed copy of the moving services
3 contract to the shipper upon delivery of the shipment. The household goods carrier must release the
4 household goods to the shipper at destination if the shipper pays the maximum price listed on the
5 moving services contract. Except as provided by subsection (c) of this section, the moving services
6 contract shall be signed and dated by the household goods carrier and the shipper confirming the
7 shipment has been delivered. This signature only confirms delivery of the shipment. Except as provided
8 in subsection (e) of this section, this copy must include the information listed in subsection (a) of this
9 section and:

10 (1) the total charges for the shipment and the specific nature of each charge, including
11 the method used to calculate the minimum and total charges if the shipment was not transported based
12 on a binding proposal;

13 (2) an explanation of all additional moving services provided in accordance with
14 §218.56(d) of this title (relating to Proposals and Estimates for Moving Services); and

15 (3) the addresses of the origin, destination, and any stops in transit if not previously
16 provided on the moving services contract at the origin.

17 (c) Delivery to a destination where the shipper is not present. If a shipper authorizes the
18 household goods carrier to deliver household goods to a destination where the shipper is not present, as
19 allowed in subsection (a)(12) of this section, the moving services contract need not be signed and dated
20 by the shipper at the time of delivery.

21 (d) Pre-existing transportation contracts. A household goods carrier is not required to comply
22 with subsection (b)(1) and (2) of this section if a pre-existing transportation contract sets out the
23 maximum amount the shipper could be required to pay for the transportation services. Pre-existing

1 transportation contracts include, but are not limited to, corporate contracts for the relocation of
2 multiple employees.

3 (e) Copies. To the extent this section requires a copy of a document or a written document, the
4 document may be in a printed or electronic format.

5 (f) Signatures. The signatures of the shipper and the household goods carrier, as required by this
6 section, may be transmitted by facsimile or other electronic means. These signatures must be separate
7 from any signatures required by the household goods carrier such as the acknowledgment of the
8 statement of value of the shipment.

9

10 §218.61. Claims.

11 (a) Filing of claims. A household goods carrier must act on all claims filed by a shipper on
12 shipments of household goods according to this section.

13 (1) A claim must be filed in writing or by electronic format with the household goods
14 carrier or the household goods carrier's agent whose name appears on the moving services contract. A
15 claim is considered filed on the date the claim is received by the household goods carrier or its agent. A
16 shipper must file a claim either in writing or by electronic format within 90 days:

17 (A) of delivery of the shipment to the final destination; or

18 (B) after a reasonable time for delivery has elapsed in the case of failure to
19 make delivery.

20 (2) The claim must include enough facts to identify the shipment. The claim must also
21 describe the type of claim and request a specific type of remedy.

22 (3) Shipping documents may be used as evidence to support a claim, but cannot be
23 substituted for a written claim.

1 (4) A claim submitted by someone other than the owner of the household goods must
2 be accompanied by a written explanation of the claimant's interest in the claim.

3 (b) Acknowledgment and disposition of filed claims.

4 (1) A household goods carrier shall send an acknowledgment of the claim either in
5 writing or by electronic format to the claimant within 23 days [~~20 days (excluding Sundays and nationally~~
6 ~~recognized holidays)~~] after receipt of the claim by the carrier or its agent.

7 (A) The claim acknowledgment shall include the statement, "Household goods
8 carriers have 90 days from receipt of a claim to pay, decline to pay, or make a firm settlement offer, in
9 writing, to a claimant. Questions or complaints concerning the household goods carrier's claims handling
10 should be directed to the Texas Department of Motor Vehicles (TxDMV), Enforcement Division, via the
11 toll-free consumer helpline as listed on the department's website. Additionally, a claimant has the right
12 to request mediation from TxDMV within 35 days [~~30 days (excluding Sundays and nationally recognized~~
13 ~~holidays)~~] after any portion of the claim is denied by the carrier, the carrier makes a firm settlement
14 offer that is not acceptable to the claimant, or 90 days has elapsed since the carrier received the claim
15 and the claim has not been resolved."

16 (B) The household goods carrier is not required to issue the acknowledgment
17 letter prescribed in this subsection if the claim has been resolved within 23 days [~~20 days (excluding~~
18 ~~Sundays and nationally recognized holidays)~~] after receipt of the claim. However, the household goods
19 carrier has the burden of proof regarding the resolution of the claim.

20 (2) After a thorough investigation of the facts, the household goods carrier shall pay,
21 decline to pay, or make a firm settlement offer in writing to the claimant within 90 days after receipt of
22 the claim by the household goods carrier or its household goods agent. The settlement offer or denial
23 shall state, "A claimant has the right to seek mediation through the Texas Department of Motor Vehicles

1 (TxDMV) within 35 days [~~30 days (excluding Sundays and nationally recognized holidays)~~] after any
2 portion of the claim is denied by the carrier, the carrier makes a firm settlement offer that is not
3 acceptable to the claimant, or 90 days has elapsed since the carrier received the claim and the claim has
4 not been resolved."

5 (3) A household goods carrier must provide a copy of the shipping documents to the
6 shipper's insurance company upon request. The carrier may assess a reasonable fee for this service.

7 (c) Documenting loss or damage to household goods.

8 (1) Inspection. If a loss or damage claim is filed and the household goods carrier wishes
9 to inspect the items, the carrier must complete any inspection as soon as possible, but no later than 30
10 calendar days, after receipt of the claim.

11 (2) Payment of shipping charges. Payment of shipping charges and payment of claims
12 shall be handled separately, and one shall not be used to offset the other unless otherwise agreed upon
13 by both the household goods carrier and claimant.

14 (d) Claim records. A household goods carrier shall maintain a record of every claim filed. Claim
15 records shall be retained for two years as required by §218.32 of this title (relating to Motor Carrier
16 Records). At a minimum, the following information on each claim shall be maintained in a systematic,
17 orderly and easily retrievable manner:

18 (1) claim number (if assigned), date received, and amount of money or the requested
19 remedy;

20 (2) number (if assigned) and date of the moving services contract;

21 (3) name of the claimant;

22 (4) date the carrier issued its claim acknowledgment letter;

1 (5) date and total amount paid on the claim or date and reasons for disallowing the
2 claim; and

3 (6) dates, time, and results of any mediation coordinated by the department.
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7 §218.62. Mediation by the Department.

8 (a) The claimant may make a written request to the department for mediation regarding a
9 dispute over a fee, or damage to the shipper's household goods.

10 (b) The claimant must attempt to resolve the claim with the household goods carrier by making
11 a reasonable effort to follow the household goods carrier's claim process before requesting mediation
12 by the department.

13 (c) Requests for mediation must be made within 35 days [~~30 days (excluding Sundays and~~
14 ~~nationally recognized holidays)] after the earliest of the following events:~~

15 (1) any portion of the claim is denied by the carrier;

16 (2) the carrier makes a firm settlement offer that is not acceptable to the claimant; or

17 (3) 90 days have [~~has~~] elapsed since the carrier received the claim and the carrier has
18 not responded to the claimant as prescribed in §218.61(b)(2) of this title (relating to Claims).

19 (d) Except as provided in subsection (e) of this section, the department shall [~~will~~] deny a
20 request for mediation made more than 125 days [~~120 days (excluding Sundays and nationally recognized~~
21 ~~holidays)] after the carrier received the claim. Additionally, the department shall [~~will~~] deny a request
22 for mediation if the carrier did not receive the claim within 90 days after the delivery of the shipment to
23 the final destination or within 90 days after a reasonable time for delivery has elapsed in the case of
failure to make delivery.~~

1 (e) The department may grant a mediation request if the claimant and the carrier agree to
2 participate in the mediation process and:

3 (1) the claimant was not advised in writing at least one time of the right to mediation as
4 required by §218.61(b)(1)(A) or (2); or

5 (2) the claimant does not receive the written denial or settlement offer letter required
6 by §218.61(b)(2).

7 (f) For purposes of subsection (c)(1) and (2) of this section, the 35-day [~~30-day~~] deadline for
8 requesting mediation is calculated from the latter of:

9 (1) the date of the claim denial or settlement offer letter; or

10 (2) the date the claim denial or settlement offer letter is mailed, emailed, or faxed to the
11 claimant.

12 (g) The department will not grant more than one mediation request to a claimant for one
13 shipment of household goods.

14 (h) The department will coordinate the selection of a mediator. The mediation will be conducted
15 by written submissions, telephone conferences, or mediation sessions held at the department's facilities
16 in Austin. The department will establish the time, date, and form of the mediation session.

17 (i) Participation in this mediation process by a household goods carrier.

18 (1) A household goods carrier shall participate in this mediation process if the
19 department grants a mediation request under this section regarding the following:

20 (A) a fee under the moving services contract; or

21 (B) the household goods carrier's liability for loss or damage to the shipper's
22 household goods to the extent the following occurs:

1 (i) the shipper and household goods carrier agreed in the moving
2 services contract that the household goods carrier’s cargo liability would exceed \$0.00;

3 (ii) a pre-existing transportation contract described by §218.57(d) of this
4 title (Relating to Moving Services Contract) states that the household goods carrier’s cargo liability
5 would exceed \$0.00; or

6 (iii) if the shipper purchases insurance from the household goods
7 carrier and the household goods carrier does not obtain the insurance policy or other appropriate
8 evidence of purchased insurance for the shipper under §218.54 of this title (Relating to Selling Insurance
9 to Shippers).

10 ~~(2) [Household goods carriers must participate in this mediation process.]~~ The
11 department may impose administrative penalties, ~~[sanctions,]~~ under §218.71 of this title (relating to
12 Administrative Penalties), on a household goods carrier who refuses to participate in the mediation
13 process or otherwise fails to comply with the requirements of this section.

14 (j) If the claimant fails to appear at the mediation after due notice or, if the mediator determines
15 the claimant has not cooperated in the mediation process, the department's mediation process shall be
16 considered concluded. The claimant may consider pursuing the claim through an appropriate court of
17 law.

18 (k) The mediator shall preside and have discretion over the mediation procedures, including the
19 ability to require the claimant and the household goods carrier to provide information and documents in
20 a timely fashion.

21 (l) If the household goods carrier makes a written report of the results of the inspection
22 documenting the lost or damaged household goods and uses the report during the department's
23 mediation, then the carrier shall provide the original or a legible copy of the report to the claimant.

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§218.64. Rates.

(a) Ratemaking. A household goods carrier and/or its household goods agent shall set maximum rates and charges for services in its applicable tariff. The household goods carrier and/or its household goods agent shall disclose the maximum rates and charges to prospective shippers before transporting a shipment [~~between two incorporated cities~~].

(b) Prohibited charges and allowances. A household goods carrier and/or its household goods agent shall not charge more than the maximum charges published in its tariff on file with the department for services associated with transportation [~~between two incorporated cities~~].

(c) Collective ratemaking agreements.

(1) Eligibility. In accordance with Transportation Code, §643.154, a household goods carrier and/or its household goods agent may enter into collective ratemaking agreements between one or more other household goods carriers or household goods agents concerning the establishment and filing of maximum rates and charges, classifications, rules, or procedures.

(2) Designation of collective ratemaking associations. An approved association may be designated by a member household goods carrier as its collective ratemaking association for the purpose of filing a tariff containing maximum rates and charges required by §218.65 of this title (relating to Tariff Registration).

(3) Submission. In accordance with Transportation Code, §643.154, a collective ratemaking agreement shall be filed with the department for approval. The agreement shall include the following information:

(A) full and correct name, business address (street and number, city, state and zip code), and phone number of the association;

- 1 (B) whether the association is a corporation or partnership; and
- 2 (i) if a corporation, the government, state, or territory under the laws of
- 3 which the association [~~applicant~~] was organized and received its present charter; and
- 4 (ii) if an association or a partnership, the names of the officers or
- 5 partners and date of formation;
- 6 (C) full and correct name and business address (city and state) of each
- 7 household goods carrier on whose behalf the agreement is filed and whether it is an association, a
- 8 corporation, an individual, or a partnership;
- 9 (D) the name, title, and mailing address of counsel, officer, or other person to
- 10 whom correspondence in regard to the agreement should be addressed; and
- 11 (E) a copy of the constitution, bylaws, or other documents or writings, specifying
- 12 the organization's powers, duties, and procedures.
- 13 (4) Signature. The collective ratemaking agreement shall be signed by all parties subject
- 14 to the agreement or the association's executive officer.
- 15 (5) Incomplete agreement. If the department receives an agreement which does not
- 16 comply with this subsection, the department shall [~~will~~] send a letter to the individual submitting the
- 17 agreement. The letter shall identify the information that is missing and advise the association that the
- 18 agreement shall [~~will~~] not be processed until the information is received.
- 19 (6) Approval. In accordance with Transportation Code, §643.154, the director or
- 20 designee shall [~~will~~] approve a collective ratemaking agreement if the agreement provides that:
- 21 (A) all meetings are open to the public; and
- 22 (B) notice of meetings shall be sent to shippers who are multiple users of the
- 23 services of a household good carrier that is a party to the agreement. [~~carriers.~~]

1 (7) Noncompliance. If the director or the director's designee determines that an
2 agreement does not comply with paragraph (6) of this subsection, the matter will be governed by
3 Chapter 224 of this title (relating to Adjudicative Practice and Procedure) and Transportation Code,
4 Chapter 643.

5 (8) New parties to an agreement. An updated agreement shall be filed with the
6 department as new parties are added.

7 (9) Amendments to approved agreements. Amendments to approved agreements
8 (other than as to new parties) may become effective only after approval by [øf] the department.

9 (d) Pursuant to Transportation Code, §643.154(c), a household goods carrier required to register
10 under Transportation Code, Chapter 643 is exempt from Chapter 15, Business and Commerce Code, for
11 an activity relating to the establishment of a joint line rate, route, classification, or mileage guide under
12 Transportation Code, §643.154(a) and (d).

13
14 §218.65. Tariff Registration.

15 (a) Submission. In accordance with Transportation Code, §643.153, a household goods carrier
16 and/or its household goods agent shall file a tariff with the department. A household goods carrier who
17 is not a member of an approved association under §218.64 of this title (relating to Rates) shall file a
18 tariff individually. In lieu of filing individually, a household goods carrier or its household goods agent,
19 that is a member of an approved association in accordance with §218.64, may designate a collective
20 association as its ratemaking association. The association may file a tariff, as required by this subsection,
21 for member carriers.

22 (1) Contents. The tariff:

23 (A) shall set out all rates, charges, rules, regulations, or other provisions, in clear

1 and concise terms, used to determine total transportation charges;

2 (B) may provide for the offering, selling, or procuring of insurance as provided in

3 §218.54 of this title (relating to Selling Insurance to Shippers);

4 (C) may provide for the base transportation charge to include assumption by the

5 household goods carrier for the full value of the shipment in the event a policy or other appropriate

6 evidence of the insurance purchased by the shipper from the household goods carrier is not issued to

7 the shipper at the time of purchase;

8 (D) shall describe the procedure for determining charges that are below the

9 maximum rate for each service performed; and

10 (E) shall reference a specific mileage guide or source, if information on rates and

11 charges based on mileage is included in the tariff [~~The referenced mileage guide shall be filed with the~~

12 ~~department as an addendum to the tariff. If the household goods carrier utilizes a computer database as~~

13 ~~a mileage guide, the household goods carrier shall allow department personnel free access to the~~

14 ~~system when conducting an inquiry regarding a specific movement performed by the household goods~~

15 ~~carrier)].~~

16 (2) Interstate tariff. In accordance with Transportation Code, §643.153, a household

17 goods carrier may satisfy the requirements of this subsection by filing a copy of its tariff governing

18 interstate household goods transportation services.

19 (3) Transmittal letter. A transmittal letter shall accompany a tariff being filed. The

20 transmittal letter shall provide:

21 (A) the name of the household goods carrier;

22 (B) the Texas mailing address and street address of the household goods

23 carrier's principal business address [~~office~~];

1 (C) the household goods carrier's certificate of registration number, if any;

2 (D) the name and title of the household goods carrier's representative

3 authorizing the tariff filing; and

4 (E) whether the tariff is being filed on behalf of a member carrier.

5 (4) Format. Tariffs shall be filed:

6 (A) on 8 1/2" x 11" paper;

7 (B) with a cover sheet showing:

8 (i) the name of the issuing household goods carrier or collective

9 ratemaking association;

10 (ii) the Texas mailing and street address;

11 (iii) the issuance date of the tariff;

12 (iv) the effective date of the tariff; and

13 (v) the tariff number; and

14 (C) separated into the following sections:

15 (i) general rules;

16 (ii) accessorial services; and

17 (iii) rates; and

18 (D) if the tariff references a mileage guide, the mileage guide shall be filed with

19 the department as an addendum to the tariff, unless the household goods carrier utilizes a computer

20 database as a mileage guide.

21 (5) Item numbers. Individual items shall be titled and designated by item number.

22 (6) Amendments. Any amendment to a tariff shall be filed with the department not less

23 than 10 days prior to the effective date of the amendment. The household goods carrier or collective

1 ratemaking association filing on behalf of its member may either file an amended tariff in total or an
2 amendment referencing the specific sections and items which are being amended. The amendment
3 format shall be the same as required by paragraph (4) of this subsection. A transmittal letter providing
4 the same information as required by paragraph (3) of this subsection shall accompany the amendment
5 filing.

6 (7) Rejection. The department shall ~~will~~ reject a tariff or amendment filing if it is
7 determined the tariff:

8 (A) fails to meet the requirements of this section; or

9 (B) fails to fully disclose, in clear and concise terms, all rates, charges, and rules.

10 (8) Electronic filings. A household goods carrier may file an electronic copy of its tariff
11 provided that the document is consistent with the provision of this subsection and is formatted in
12 Microsoft Word or other format approved by the director.

13 (b) Department access to computer database used as mileage guide. If the household goods
14 carrier utilizes a computer database as a mileage guide in its tariff, the household goods carrier shall
15 allow department personnel free access to the system when conducting an inquiry regarding a specific
16 movement performed by the household goods carrier.

17 ~~[(b) Operations. The department will accept a tariff which is in substantial compliance with this~~
18 ~~section if the tariff was submitted prior to November 1, 1995.]~~

19 (c) Access. In accordance with Transportation Code, §643.153, tariffs filed in accordance with
20 this section shall ~~will~~ be made available for public inspection at the TxDMV Enforcement Division or by
21 calling the department's toll-free consumer helpline as listed on the department's website.

22 (d) Conflicts. All provisions of household goods carriers' tariffs are superseded to the extent they
23 may conflict with the provisions of this chapter.

1

2 **STATUTORY AUTHORITY.** The department proposes the repeal under Transportation Code, §643.152,
3 which authorizes the department to establish voluntary standards for uniform cargo liability and
4 uniform bills of lading or receipts for cargo, which standards must be consistent with Subtitle IV, Title 49,
5 United States Code, or a regulation adopted under that law; Transportation Code, §643.003, which
6 authorizes the department to adopt rules to administer Transportation Code, Chapter 643;
7 Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and
8 appropriate to implement the powers and duties of the department under the Transportation Code and
9 other laws of this state; and the statutory authority referenced throughout this preamble and in the rule
10 text, which is incorporated herein by reference.

11 **CROSS REFERENCE TO STATUTE.** The proposed repeal implements Transportation Code, Chapter 643.

12

13 TEXT.

14 [~~§218.58. Moving Services Contract – Options for Carrier Limitation of Liability.~~]

15 [~~(a) General.~~]

16 [~~(1) Household goods shipments transported between points in Texas shall be subject to~~
17 ~~all terms and conditions of the moving services contract, as set forth in §218.57 of this title (relating to~~
18 ~~Moving Services Contract), except in cases where such terms and conditions are in conflict with the laws~~
19 ~~of the State of Texas.]~~

20 [~~(2) If a household goods carrier chooses to use additional limitations of liability on a~~
21 ~~shipment, the limitations shall be either of the options specified in subsections (b) or (c) of this section.~~
22 ~~A household goods carrier may not alter or expand on the limitation to its liability or the exact wording~~
23 ~~set out in subsections (b) or (c) of this section. The option selected by the household goods carrier shall~~

1 ~~be included with and is part of the moving services contract.]~~

2 ~~[(b) Option 1. If this option is chosen, the following language must be used verbatim.]~~

3 ~~[(1) Section 1 – General Provisions.]~~

4 ~~[(A) For the purposes of this subsection, the following terms will mean:]~~

5 ~~[(i) Household goods carrier—The motor carrier/mover contracted to~~
6 ~~transport a shipment of household goods.]~~

7 ~~[(ii) Shipper—The owner of the household goods shipment or his~~
8 ~~representative.]~~

9 ~~[(B) Changes to the moving service contract are not valid unless agreed to in~~
10 ~~writing by the household goods carrier and the shipper.]~~

11 ~~[(C) Household goods carriers will transport shipments with reasonable~~
12 ~~dispatch. Reasonable dispatch requires the transportation of a shipment within the agreed period of~~
13 ~~time shown on the moving services contract, except when circumstances beyond the carrier's control,~~
14 ~~force majeure, prevent or delay transportation.]~~

15 ~~[(D) Moving services contracts must comply with all other applicable laws of the~~
16 ~~State of Texas.]~~

17 ~~[(2) Section 2 – Cargo Liability Provisions.]~~

18 ~~[(A) The household goods carrier is liable for any loss or damage to the~~
19 ~~shipment, except as listed in subparagraphs (B) and (C) of this paragraph.]~~

20 ~~[(B) The household goods carrier is not responsible for loss, damage, or delay~~
21 ~~due to acts of God, acts of civil authorities, defects in the shipment, a riot, a strike, or an act or default of~~
22 ~~the shipper.]~~

23 ~~[(C) The household goods carrier is not liable for loss or damage caused by~~

1 ~~dangerous or explosive goods unless the shipper notifies the carrier, in writing, of the nature of the~~
2 ~~goods and the carrier agrees, in writing, to the transportation of these goods.]~~

3 ~~[(3) Section 3 – Claims Provisions.]~~

4 ~~[(A) A written claim must be filed by the shipper within 90 days of delivery of~~
5 ~~the shipment to the final destination. In case of failure to make delivery, then a written claim must be~~
6 ~~filed by the shipper within 90 days after a reasonable time for delivery has elapsed.]~~

7 ~~[(B) A household goods carrier is not liable for any claim that is not filed within~~
8 ~~90 days of the delivery of the shipment to the final destination. A household goods carrier is not liable~~
9 ~~for any claim that is not filed within 90 days after a reasonable time for delivery has elapsed for~~
10 ~~shipments that were not delivered.]~~

11 ~~[(4) Section 4 – Payment Provisions. The shipper must pay the freight charges upon~~
12 ~~delivery unless the shipper and household goods carrier agree otherwise.]~~

13 ~~[(5) Section 5 – Provisions for Shipments Not Delivered.]~~

14 ~~[(A) A household goods carrier may place a shipment of household goods into~~
15 ~~storage if the shipper is not available for delivery of the goods as scheduled.]~~

16 ~~[(B) The cost of such storage is the responsibility of the shipper of the household~~
17 ~~goods.]~~

18 ~~[(C) A shipment of household goods placed in storage is subject to liens for~~
19 ~~storage, freight, and other lawful charges.]~~

20 ~~[(D) A household goods carrier must issue written notice of the storage of the~~
21 ~~household goods to the shipper at each address shown on the moving services contract within three~~
22 ~~days of placing the goods in storage.]~~

23 ~~[(E) If the shipper refuses to accept or does not claim the household goods~~

1 within 15 days of the written notice of storage, the household goods carrier may begin the process of
2 selling the goods at public sale, as prescribed in Transportation Code, Chapter 6.]

3 [(F) A household goods carrier must give written notice of the public sale to the
4 shipper at each address shown on the moving services contract.]

5 [(G) The moving services contract does not prohibit the sale of the goods under
6 any other lawful manner if the method set out in the contract cannot be reasonably accomplished.]

7 [(c) Option 2. If this option is chosen, the following language must be used verbatim.]

8 [(1) Section 1 of contract terms and conditions.]

9 [(A) The household goods carrier or party in possession of any of the property
10 herein described shall be liable at common law for any loss thereof or damage thereto, except as
11 hereinafter provided.]

12 [(B) No household goods carrier or party in possession of all or any of the
13 property herein described shall be liable for any loss thereof or damage thereto or delay caused by an
14 act of God, the public enemy, the authority of law, or an act or default of the shipper or owner. The
15 household goods carrier's liability shall be that of warehouseman only, for loss, damage, or delay caused
16 by fire occurring after the expiration of the free time (if any) allowed by tariffs lawfully on file after
17 notice of the arrival of the property at destination has been duly sent or given, and after placement of
18 the property for delivery at destination, or tender of delivery of the property to the party entitled to
19 receive it, has been made. Except in case of negligence of the household goods carrier or party in
20 possession (and the burden to prove freedom from such negligence shall be on the household goods
21 carrier or party in possession), the household goods carrier or party in possession shall not be liable for
22 loss, damage, or delay occurring while the property is stopped and held in transit upon the request of
23 the shipper, owner, or party entitled to make such request, or resulting from a defect or inherent vice of

1 the article, including susceptibility to damage because of atmospheric conditions such as temperature
2 and humidity or changes therein, or from riots or strikes. Except in the case of household goods carrier's
3 negligence, no household goods carrier, or party in possession of all or any of the property herein
4 described, shall be liable for delay caused by highway obstruction, faulty or impassable highway, or lack
5 of capacity of any highway, bridge, or ferry, and the burden to prove freedom from such negligence shall
6 be on the household goods carrier or party in possession.]

7 [(C) In case of quarantine the property may be discharged at the risk and expense of the owner
8 into quarantine depot or elsewhere, as required by quarantine regulations or authorities, or for the
9 household goods carrier's dispatch at the nearest available point in the household goods carrier's
10 judgment, and in any such case the household goods carrier's responsibility shall cease when property is
11 so discharged, or property may be returned by the household goods carrier at the owner's expense to
12 the shipping point, earning freight both ways. Quarantine expenses of whatever nature or kind upon or
13 in respect to property shall be borne by the owner of the property or the household goods carrier may
14 file a lien. The household goods carrier shall not be liable for loss or damage occasioned by fumigation
15 or disinfection or other acts required or done by quarantine regulations or authorities even though the
16 same may have been done by the household goods carrier's officers, local agents, or employees, nor for
17 detention, loss, or damage of any kind occasioned by the quarantine or its enforcement. A household
18 goods carrier shall not be liable, except in the case of negligence, for any mistake or inaccuracy in any
19 information furnished by the household goods carrier, its local agents, or officers, as to quarantine laws
20 or regulations. The shipper shall hold the household goods carrier harmless from any expense it may
21 incur, or damages it may be required to pay, by reason of the introduction of the property covered by
22 this contract into any place against the quarantine laws or regulations in effect at such place.]

23 [(2) Section 2 of contract terms and conditions.]

1 ~~[(A) A household goods carrier is not bound to transport property by any~~
2 ~~particular scheduled vehicle or in time for any particular market other than with reasonable dispatch. A~~
3 ~~household goods carrier shall have the right, in case of physical necessity, to forward the property by~~
4 ~~any household goods carrier or route between the point of shipment and the point of destination. In all~~
5 ~~cases not prohibited by law, where a lower value than actual value has been represented in writing by~~
6 ~~the shipper or has been agreed upon in writing as the released value of the property as determined by~~
7 ~~the classification or tariffs upon which the rate is based, such lower value plus freight charges, if paid,~~
8 ~~shall be the maximum amount recovered, whether or not such loss or damage occurs from negligence.]~~

9 ~~[(B) As a condition precedent to recovery, a claim must be filed in writing with~~
10 ~~the receiving or delivering household goods carrier, or the household goods carrier issuing the bill of~~
11 ~~lading or receipt, or the household goods carrier on whose line the loss, damage, injury, or delay~~
12 ~~occurred, or the household goods carrier in possession of the property when the loss, damage, injury, or~~
13 ~~delay occurred, within 90 days after delivery of the property or, in case of failure to make delivery, then~~
14 ~~within 90 days after a reasonable time for delivery has elapsed; and suits shall be instituted against any~~
15 ~~household goods carrier only within two years and one day from the day when notice in writing is given~~
16 ~~by the household goods carrier to the claimant that the household goods carrier has disallowed the~~
17 ~~claim or any of its part or parts specified in the notice. Where a claim is not filed or a suit is not~~
18 ~~instituted in accordance with the foregoing provisions, a household goods carrier hereunder shall not be~~
19 ~~held liable, and the claim will not be paid.]~~

20 ~~[(C) Any household goods carrier or party liable on account of loss of or damage~~
21 ~~to any of the property shall have the full benefit of any insurance that may have been effected, upon, or~~
22 ~~on account of, said property, so far as this shall not avoid the policies or contracts of insurance;~~
23 ~~provided, that the household goods carrier reimburses the claimant for the premium paid.]~~

1 ~~[(3) Section 3 of contract terms and conditions. Except where such service is required as~~
2 ~~the result of household goods carrier's negligence, all property shall be subject to necessary coeprage~~
3 ~~and baling at the owner's cost.]~~

4 ~~[(4) Section 4 of contract terms and conditions.]~~

5 ~~[(A) Property not removed by the party entitled to receive it within the free time~~
6 ~~(if any) allowed by tariff lawfully on file (such free time to be computed as therein provided), after~~
7 ~~notice of the arrival of the property at destination has been duly sent or given, and after tender of the~~
8 ~~property for delivery at destination has been made, or property not received, at time tender of delivery~~
9 ~~of the property to the party entitled to receive it has been made, may be kept in vehicle, warehouse, or~~
10 ~~place of business of the household goods carrier, subject to the tariff charge for storage and to~~
11 ~~household goods carrier's responsibility as warehouseman, only, or at the option of the household~~
12 ~~goods carrier, may be removed to and stored in a public or licensed warehouse at the point of delivery~~
13 ~~or other available point, or if no such warehouse is available at point of delivery or at other available~~
14 ~~storage facility, at the cost of the owner and there held without liability on the part of the household~~
15 ~~goods carrier, and subject to a lien for all freight and other lawful charges, including a reasonable charge~~
16 ~~for storage. In the event consignee cannot be found at address given for delivery, notice of the placing~~
17 ~~of such goods in warehouse shall be mailed to the address given for delivery and mailed to any other~~
18 ~~address given on the bill of lading or receipt for notification, showing the warehouse in which the~~
19 ~~property has been placed.]~~

20 ~~[(B) If nonperishable property which has been transported to destination~~
21 ~~hereunder is refused by consignee or the party entitled to receive it upon tender of delivery, or said~~
22 ~~consignee or party entitled to receive it fails to receive or claim it within 15 days after notice of arrival~~
23 ~~shall have been duly sent or given, the household goods carrier may sell the same at public auction to~~

1 the highest bidder, at such place as may be designated by the household goods carrier; provided, that
2 the household goods carrier shall have first mailed, sent, or given to the consignor notice that the
3 property has been refused or remains unclaimed, as the case may be, and that it will be subject to sale
4 under the terms of the bill of lading or receipt if disposition be not arranged for, and shall have
5 published notice containing a description of the property, the name of the party to whom consigned, or,
6 if shipped order notify, the name of party to be notified, and the time and place of sale, once a week for
7 two successive weeks, in a newspaper of general circulation at the place of sale or nearest place where
8 such newspaper is published. Thirty days must elapse after notice that the property was refused or
9 remains unclaimed was mailed, sent, or given before notice of sale may be published.]

10 [(C) If perishable property which has been transported is refused by the
11 consignee or party entitled to receive it, or the consignee or party entitled to receive it shall fail to
12 receive it promptly, the household goods carrier may, in its discretion, to prevent deterioration or
13 further deteriorations, sell the same to the best advantage at private or public sale; provided, that if
14 time serves for notification to the consignor or owner of the refusal of the property or the failure to
15 receive it and request for disposition of the property, notification shall be given, in such manner as the
16 exercise of due diligence requires before the property is sold.]

17 [(D) If the procedure provided for in this section is not possible, it is agreed that
18 nothing contained in the section shall be construed to abridge the right of the household goods carrier
19 at its option to sell the property under such circumstances and in such manner as may be authorized by
20 law.]

21 [(E) The proceeds of the sale shall be applied by the household goods carrier to
22 the payment of freight, demurrage, storage, and any other lawful charges and the expense of notice,
23 advertisement, sale, and other necessary expense and of caring for and maintaining the property, if

1 ~~proper care requires special expense. If there is a balance it shall be paid to the owner of the property.]~~

2 ~~[(F) If the household goods carrier is directed by the consignor or its agent to~~
3 ~~load property from (or render any services at) a place or places at which the consignor or its agent is not~~
4 ~~present, the property shall be at the risk of the owner before loading.]~~

5 ~~[(G) If the household goods carrier is directed by the consignee or its agent to~~
6 ~~unload or deliver property (or render any services) at the place or places at which the consignee or its~~
7 ~~agent is not present, the property shall be at the risk of the owner after unloading or delivery.]~~

8 ~~[(5) Section 5 of contract terms and conditions. A household goods carrier shall not carry~~
9 ~~or be liable in any way for documents, specie, or for articles of extraordinary value not specifically rated~~
10 ~~in the published classification or tariffs unless a special agreement to do so and a stipulated value of the~~
11 ~~articles are endorsed.]~~

12 ~~[(6) Section 6 of contract terms and conditions. Every party, whether the principal or~~
13 ~~local agent, shipping explosives or dangerous goods, without previous full written disclosure to the~~
14 ~~household goods carrier of their nature, shall be liable for and indemnify the household goods carrier~~
15 ~~against all loss or damage caused by the goods, and the goods may be warehoused at the owner's risk~~
16 ~~and expense or destroyed without compensation.]~~

17 ~~[(7) Section 7 of contract terms and conditions.]~~

18 ~~[(A) The owner or consignee shall pay the freight and all other lawful charges~~
19 ~~accruing on said property; but, except in those instances where it may lawfully be authorized to do so,~~
20 ~~no household goods carrier shall deliver or relinquish possession at destination of the property covered~~
21 ~~by this bill of lading or receipt until all rates and charges have been paid. The consignor shall be liable for~~
22 ~~the freight and all other lawful charges, except that if the consignor stipulates, by signature, in the space~~
23 ~~provided for that purpose on the face of this bill of lading or receipt that the household goods carrier~~

1 shall not make delivery without requiring payment of the charges and the household goods carrier,
2 contrary to such stipulation shall make delivery without requiring such payment, the consignor (except
3 as hereinafter provided) shall not be liable for the charges. Where the household goods carrier has been
4 instructed by the shipper or consignor to deliver the property to a consignee other than the shipper or
5 consignor, the consignee shall not be legally liable for transportation charges in respect of the
6 transportation of the property (beyond those billed against him at the time of delivery for which he is
7 otherwise liable) which may be found to be due after the property has been delivered to him, if the
8 consignee is an agent only and has no beneficial title in said property, and prior to delivery of said
9 property has notified the delivering household goods carrier in writing of the fact of such agency and
10 absence of beneficial title, and, in the case of a shipment reconsigned or diverted to a point other than
11 that specified in the original bill of lading or receipt, has also notified the delivering household goods
12 carrier in writing of the name and address of the beneficial owner of said property; and, in such cases
13 the shipper or consignor, or, in the case of a shipment so reconsigned or diverted, the beneficial owner
14 shall be liable for such additional charges.]

15 ~~[(B) If the consignee has given to the household goods carrier erroneous~~
16 ~~information as to whom the beneficial owner is, such consignee shall be liable for the additional~~
17 ~~charges. Nothing herein shall limit the right of the household goods carrier to require at time of~~
18 ~~shipment the payment or guarantee of the charges. If upon inspection it is ascertained that the articles~~
19 ~~shipped are not those described in this bill of lading or receipt, the freight charges must be paid on the~~
20 ~~articles actually shipped.]~~

21 ~~[(8) Section 8 of contract terms and conditions. If this bill of lading or receipt is issued on~~
22 ~~the order of the shipper or his agent, in exchange or in substitution for another bill of lading or receipt,~~
23 ~~the shipper's signature to the prior bill of lading or receipt as to the statement of value or otherwise, or~~

1 ~~election of common law or bill of lading or receipt, in or in connection with such prior bill of lading or~~
2 ~~receipt, shall be considered a part of this bill of lading or receipt as fully as if the same were written or~~
3 ~~made in or in connection with this bill of lading or receipt.]~~

4 ~~[(9) Section 9 of contract terms and conditions. Any alteration, addition, or erasure in~~
5 ~~this bill of lading or receipt which shall be made without the special notation herein of the agent of the~~
6 ~~household goods carrier issuing this bill of lading or receipt, shall be without effect, and this bill of lading~~
7 ~~or receipt shall be enforceable according to its original tenor.]~~

8

9

SUBCHAPTER F. ADMINISTRATIVE PENALTIES AND SANCTIONS

10

43 TAC §218.72

11

12 **STATUTORY AUTHORITY.** The department proposes the amendments under Transportation Code,
13 §643.252, which authorizes the department to suspend or revoke a registration issued under
14 Transportation Code, Chapter 643 or place on probation a motor carrier whose registration is
15 suspended; Transportation Code, §643.257, which authorizes the department to order a motor carrier
16 that violates Transportation Code, Chapter 643 or a rule or order adopted under Transportation Code,
17 Chapter 643 to pay a refund to a consumer who paid the motor carrier to transport household goods;
18 Transportation Code, §643.003, which authorizes the department to adopt rules to administer
19 Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to
20 adopt rules that are necessary and appropriate to implement the powers and duties of the department
21 under the Transportation Code and other laws of this state; Government Code, §2001.004, which
22 requires state agencies to adopt rules of practice stating the nature and requirements of all available
23 formal and informal procedures; and the statutory authority referenced throughout this preamble and

1 in the rule text, which is incorporated herein by reference.

2 **CROSS REFERENCE TO STATUTE.** The proposed amendments implement Transportation Code, Chapter
3 643; and Government Code, Chapter 2001.

4

5 TEXT.

6 §218.72. Administrative Sanctions.

7 (a) Grounds for suspension, revocation, denial, and probation. Transportation Code, §643.252

8 provides the grounds on which the department can suspend, revoke, or deny a certificate of registration

9 issued under Transportation Code, Chapter 643. Transportation Code, §643.252 also provides the

10 grounds on which the department can place on probation a motor carrier whose registration is

11 suspended.

12 (b) Texas Department of Public Safety enforcement recommendations.

13 (1) The department may suspend or revoke a certificate of registration of a motor

14 carrier upon a written request by the Texas Department of Public Safety, if a motor carrier:

15 (A) has an unsatisfactory safety rating under 49 C.F.R., Part 385; or

16 (B) has multiple violations of Transportation Code, Chapter 644, a rule adopted

17 under that chapter, or Transportation Code, Title 7, Subtitle C.

18 (2) A request under paragraph (1) of this subsection must include documentation

19 showing the violation.

20 (c) Refund.

21 (1) The department may order a household goods [~~motor~~] carrier that violates

22 Transportation Code Chapter 643, department rules, or a department order adopted under

23 Transportation Code Chapter 643 to issue a refund to a customer who paid the household goods

1 [motor] carrier to transport household goods.

2 (2) Under this subsection, a refund is the return of any percentage of funds paid, or
3 contracted to be paid, to a household goods [motor] carrier transporting household goods, whether
4 those funds are documented as a separate line item or included in the overall amount paid by a
5 customer.

6 (A) A refund includes overpayments, fees paid for services not rendered, and
7 fees paid for charges not listed on the household goods carrier's [mover's] tariff after the household
8 goods carrier [mover] takes possession of the customer's property.

9 (B) A refund does not include any consideration of damages or harm over the
10 amount paid by the customer.

11

12 **SUBCHAPTER G. FINANCIAL RESPONSIBILITY FOR FOREIGN COMMERCIAL MOTOR VEHICLES**

13 **43 TAC §218.80 AND §218.82**

14

15 **STATUTORY AUTHORITY.** The department proposes the amendments under Transportation Code,
16 §648.102, which authorizes the department to adopt rules that conform with 49 C.F.R. Part 387 requiring
17 motor carriers operating foreign commercial motor vehicles in Texas to maintain financial responsibility;
18 Transportation Code, §643.101(b), which authorizes the department to adopt rules to set the amount of
19 liability insurance that a motor carrier that is required to register under Subchapter B of Transportation
20 Code, Chapter 643 must maintain, at an amount that does not exceed the amount required for a motor
21 carrier under a federal regulation adopted under 49 U.S.C. §13906(a)(1); Transportation Code, §643.003,
22 which authorizes the department to adopt rules to administer Transportation Code, Chapter 643;
23 Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and

1 appropriate to implement the powers and duties of the department under the Transportation Code and
2 other laws of this state; Government Code, §2001.004, which requires state agencies to adopt rules of
3 practice stating the nature and requirements of all available formal and informal procedures; and the
4 statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein
5 by reference.

6 **CROSS REFERENCE TO STATUTE.** The proposed amendments implement Transportation Code, §648.102;
7 and Government Code, §2001.004.

8

9 TEXT.

10 §218.80. Purpose and Scope.

11 The purpose of this subchapter is to comply with Transportation Code, §648.102. For the
12 purposes of this subchapter, the term “motor carrier” is defined by Transportation Code, §648.001, and
13 does not include the following:

14 (1) a motor carrier that is required to register with the department under Transportation Code,
15 Chapter 643; or

16 (2) a motor carrier that is required to register with FMCSA for interstate transportation, and is
17 not operating in intrastate transportation within this state.

18 (3) If a motor carrier is required to register with the department under Transportation Code,
19 Chapter 643, the motor carrier must comply with the financial responsibility requirements in §218.16 of
20 this title (relating to Insurance Requirements).

21

22 §218.82. Financial Responsibility.

23 (a) Intrastate transportation. No motor carrier shall operate a foreign commercial motor vehicle

1 in intrastate transportation in Texas, unless the motor carrier obtains and has in effect an insurance
2 policy which covers at least the minimum level required by 49 C.F.R. Part 387. ~~[However, if the motor~~
3 ~~carrier is required to register with the department under Transportation Code, Chapter 643, the motor~~
4 ~~carrier must comply with the financial responsibility requirements in §218.16 of this title (relating to~~
5 ~~Insurance Requirements).]~~ For the purposes of this subsection, intrastate transportation is any
6 transportation on a public ~~road or~~ highway in Texas that is not described in 49 U.S.C. §13501.

7 (b) The department adopts by reference 49 C.F.R. Part 387 regarding the required level of
8 financial responsibility, including any amendments that became effective through July 1, 2024. ~~[Effective~~
9 ~~October 23, 2015, the department adopts by reference the amendments to 49 C.F.R. Part 387 with an~~
10 ~~effective date of October 23, 2015.]~~

11

12