

CHAPTER 217. VEHICLE TITLES AND
REGISTRATION
SUBCHAPTER I. SALVAGE VEHICLE
DEALERS

43 TAC §217.193

The Texas Department of Motor Vehicles (department) proposes new §217.193, Delegation of Final Order Authority.

EXPLANATION OF PROPOSED NEW SECTION

Proposed new §217.193 implements the delegation authority provided in Transportation Code, §1003.00. In enforcement cases involving salvage vehicle dealers, salvage vehicle rebuilders and salvage pool operators in which there will not be a decision made based on the merits of the case, the authority to issue a final order to dispose of the case currently rests with the Board of the Texas Department of Motor Vehicles (board). Cases in which there will not be a decision made based on the merits of the case include, but are not limited to: cases resolved by settlement between the parties, cases settled by agreed order, cases where the complaint or protest has been withdrawn, cases to be dismissed because of want of prosecution or want of jurisdiction, cases where the respondent has defaulted, cases resolved by summary judgment or summary disposition, and cases where a party waives its opportunity for a hearing. The board is authorized to delegate authority to issue a final order in these cases to the director of a division of the department.

Delegation of final order authority in these cases will expedite the resolution of these cases, thereby better serving the parties in these cases, and will reduce the time required by the board and staff to address these cases during board meetings.

Cases where a hearing has been held at the State Office of Administrative Hearings and a proposal for decision has been issued by an administrative law judge will still be resolved by the board issuing a final order.

Subsection (a) of the proposed rule delegates the board's authority to issue final orders in certain cases brought under the salvage chapter, Occupations Code, Chapter 2302, to the director of the department's division that regulates the distribution and sale of motor vehicles. It is that division that licenses salvage vehicle dealers, salvage vehicle rebuilders and salvage pool operators.

Subsection (b) of the proposed rule provides that the person to whom the board has delegated final order authority shall decide whether a motion for rehearing shall be granted or denied.

FISCAL NOTE

Linda M. Flores, Chief Financial Officer, has determined that for each of the first five years the new section as proposed is in effect, there will be no anticipated fiscal implications for state or local governments as a result of enforcing or administering the new section.

William P. Harbeson, Director of the Enforcement Division, has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the new section.

PUBLIC BENEFIT AND COST

Mr. Harbeson has also determined that for each year of the first five years the new section is in effect, the public benefit antici-

pated as a result of enforcing or administering the new section will be a reduction in time to conclude a wide variety of enforcement cases dealing with salvage industry licensees.

There are no anticipated economic costs for persons required to comply with the new section as proposed. There will be no adverse economic effect on small businesses or micro-businesses.

TAKINGS IMPACT ASSESSMENT

The department has determined that this proposal affects no private real property interests and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action, and so does not constitute a taking or require a takings impact assessment under the Government Code, §2007.043.

SUBMITTAL OF COMMENTS

Written comments on the proposed new section may be submitted to David D. Duncan, General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email to rules@txdmv.gov. The deadline for receipt of comments is 5:00 p.m. on July 20, 2015.

STATUTORY AUTHORITY

The new section is proposed under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to establish rules for the conduct of the work of the department; and more specifically, Occupations Code, §2302.051, which authorizes the board to adopt rules necessary to administer and enforce Chapter 2302.

CROSS REFERENCE TO STATUTE

Occupations Code, Chapter 2302; and Transportation Code, Chapters 1002 and 1003.

§217.193. Delegation of Final Order Authority.

(a) In accordance with Transportation Code, §1003.005(b), in cases brought under Occupations Code, Chapter 2302, the director of the division that regulates the distribution and sale of motor vehicles is authorized to issue a final order in a case without a decision on the merits, including, but not limited to a case resolved:

- (1) by settlement;
- (2) by agreed order;
- (3) by withdrawal of the complaint;
- (4) by dismissal for want of prosecution;
- (5) by dismissal for want of jurisdiction;
- (6) by summary judgment or summary disposition;
- (7) by default judgment; or
- (8) when a party waives opportunity for a hearing.

(b) In contested cases in which the board has delegated final order authority under subsection (a) of this section, a motion for rehearing shall be filed with and decided by the final order authority delegate.

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

Filed with the Office of the Secretary of State on June 4, 2015.

TRD-201502054

David D. Duncan
General Counsel
Texas Department of Motor Vehicles
Earliest possible date of adoption: July 19, 2015
For further information, please call: (512) 465-5665

