



CHAPTER 219. OVERSIZE AND OVERWEIGHT VEHICLES AND LOADS

The Texas Department of Motor Vehicles (department) proposes amendments to Chapter 219, Oversize and Overweight Vehicles and Loads, Subchapter A, General Provisions, §219.2, Definitions; and Subchapter C, Permits for Over Axle and Over Gross Weight Tolerances, §219.34, North Texas Intermodal Permit; §219.35, Fluid Milk Transport Permit; and §219.36, Intermodal Shipping Container Port Permit.

EXPLANATION OF PROPOSED AMENDMENTS

The 85th Legislature, Regular Session, 2017, authorized three new permits for overweight vehicle combinations. Proposed amendments to §§219.2, 219.34, 219.35, and 219.36 implement House Bill 2319, Senate Bill 1383, and Senate Bill 1524 by defining and clarifying terms that are used in these bills.

The department proposes to define the terms "roll stability support safety system" and "truck blind spot systems" because industry and enforcement personnel could interpret these terms to mean different things. These terms were included in House Bill 2319, Senate Bill 1383, and Senate Bill 1524 to attempt to make these permitted vehicles safer. The department's proposed definitions focus on safety. For example, the roll stability support safety system is defined to require an electronic system. The manual actions or perceptions of a human driver do not qualify as a "roll stability support safety system" because a human driver might not be capable of detecting or preventing instability problems as well as an electronic system.

A proposed amendment to §219.34 and §219.36 clarifies the term "approximately 647 inches," and a proposed amendment to §219.36 clarifies the term "approximately 612 inches." These terms state the authorized distance between the front axle of the truck-tractor and the last axle of the semitrailer in the combinations that are eligible for permits under §219.34 and §219.36. Industry and enforcement personnel could interpret these terms to mean different things.

The department received calls from industry representatives who wanted to know how the department interpreted these terms because industry wanted to exceed these numbers. For example, a manufacturer told one motor carrier that they have equipment in production that exceeded the 612-inch requirement by 46 inches.

The Legislature did not define these terms in House Bill 2319 or Senate Bill 1524. In construing a statute, the Code Construction Act says a court may consider the object sought to be attained, the consequences of a particular construction, the administrative construction of the statute, etc. See Government Code, §311.023.

The Legislature used the terms "approximately 647 inches" and "approximately 612 inches" to ensure a certain distance between the applicable axles to minimize or prevent the damage to roadways that could be caused by the excess weight of the permitted vehicles. The department discussed this issue with the Texas

Department of Transportation (TxDOT) because they design and maintain roadways on which the permitted vehicles could travel. The department also discussed this issue with the Texas Department of Public Safety (DPS) because they enforce weight issues. Further, the department discussed this issue at TxDOT's Oversize and Overweight Stakeholder Workshop on November 20, 2017, when an industry representative asked for clarification on the meaning of the terms "approximately 612 inches" and "approximately 647 inches."

In defining these terms, the department focused on the object sought to be attained, which is to minimize or prevent damage that could be caused by the excess weight of the permitted vehicles. The department also focused on the consequences of a particular interpretation or construction of the terms. TxDOT stated that distances below 612 inches or 647 inches could have a significant impact on their assessment of bridges and may result in additional load postings. Also, industry only asked if the distance could go above 612 and 647 inches, so they could purchase equipment that is currently in production.

The department, TxDOT, and DPS agree that 612 inches and 647 inches are the minimum distances allowed; however, the permitted vehicles can exceed these distances. The word "approximately" is defined as: "The state of being very close to an actual accurate answer in mathematics. Refer to about." black's law dictionary free online legal dictionary (2nd ed.) The term "about" is defined as: "While not an exact term 'about' signifies not more or less than 10 percent of the stipulated amount, quantity, or unit price. Refer to the definition of approximately." *ie.* TxDOT did not suggest a specific maximum distance; however, they stated the longer the distance, the better. DPS pointed out the potential benefit of not listing a maximum distance in case a manufacturer or engineer designs equipment that exceeds whatever maximum distance the department might establish in §219.34 and §219.36.

The proposed amendments establish the maximum distance, so the department's personnel and industry have a clear maximum distance. However, the department reserves the right to increase the maximum distance in §219.34 and §219.36 prior to adoption, depending on the comments we receive.

Other amendments to §219.2 delete an incorrect statutory reference and update the language to be internally consistent.

FISCAL NOTE

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

Jimmy Archer, Director of the Motor Carrier Division, has determined that there will be no impact on local economies or overall employment as a result of enforcing or administering the proposed amendments.

PUBLIC BENEFIT AND COST

Mr. Archer has also determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of enforcing or administering the amendments will be clarification regarding certain requirements for permits under §§219.34, 219.35, and 219.36. Industry needs these clarifications to purchase compliant equipment. The department needs to let industry know how the department interprets the terms from an administrative enforcement perspective. There

are no anticipated economic costs for persons required to comply with the proposed amendments. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

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 Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT

The department has determined that during the first five years the proposed amendments are in effect, no government program would be created or eliminated. Implementation of the proposed amendments would not require the creation of new employee positions or elimination of existing employee positions. Implementation would not require an increase or decrease in future legislative appropriations to the department or an increase or decrease of fees paid to the department. Additionally, the proposed amendments do not create a new regulation, or expand, limit, or repeal an existing regulation. The proposed amendments do not affect the number of individuals subject to the rule's applicability and will not affect this state's economy.

SUBMITTAL OF COMMENTS

Written comments on the proposed amendments 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 April 2, 2018.

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §219.2

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles (board) with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department under the Transportation Code; Transportation Code, §623.002, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 623; and more specifically, Transportation Code §623.407(a), which requires the department to adopt rules that are necessary to implement Transportation Code, Chapter 623, Subchapter U, Vehicles Transporting Fluid Milk; and Transportation Code, §623.411(a), which requires the department to adopt rules that are necessary to implement Transportation Code, Chapter 623, Subchapter U, Intermodal Shipping Containers.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 621 and 623.

§219.2. Definitions.

(a) The definitions contained in Transportation Code, Chapters 621, 622, and 623 apply to this chapter. In the event of a conflict with this chapter, the definitions contained in Transportation Code, Chapters 621, 622, and 623 control.

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

(1) Annual permit--A permit that authorizes movement of an oversize and/or overweight load for one year commencing with the effective date.

(2) Applicant--Any person, firm, or corporation requesting a permit.

(3) Axle--The common axis of rotation of one or more wheels whether power-driven or freely rotating, and whether in one or more segments.

(4) Axle group--An assemblage of two or more consecutive axles, with two or more wheels per axle, spaced at least 40 inches from center of axle to center of axle, equipped with a weight-equalizing suspension system that will not allow more than a 10% weight difference between any two axles in the group.

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

(6) Closeout--The procedure used by the department to terminate a permit, issued under Transportation Code, §623.142 or §623.192 that will not be renewed by the applicant.

(7) Complete identification number--A unique and distinguishing number assigned to equipment or a commodity for purposes of identification.

(8) Concrete pump truck--A self-propelled vehicle designed to pump the concrete product from a ready mix truck to the point of construction.

(9) Crane--Any unladen lift equipment motor vehicle designed for the sole purpose of raising, shifting, or lowering heavy weights by means of a projecting, swinging mast with an engine for power on a chassis permanently constructed or assembled for such purpose.

(10) Credit card--A credit card approved by the department.

(11) Daylight--The period beginning one-half hour before sunrise and ending one-half hour after sunset.

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

(13) Digital signature--An electronic identifier intended by the person using it to have the same force and effect as a manual signature. The digital signature shall be unique to the person using it.

(14) Director--The Executive Director of the Texas Department of Motor Vehicles or a designee not below the level of division director.

(15) District--One of the 25 geographical areas, managed by a district engineer of the Texas Department of Transportation, in which the Texas Department of Transportation conducts its primary work activities.

(16) District engineer--The chief executive officer in charge of a district of the Texas Department of Transportation.

(17) Electronic identifier--A unique identifier which is distinctive to the person using it, is independently verifiable, is under the sole control of the person using it, and is transmitted in a manner that makes it infeasible to change the data in the communication or digital signature without invalidating the digital signature.

(18) Escort vehicle--A motor vehicle used to warn traffic of the presence of an oversize and/or overweight vehicle.

(19) Four-axle group--Any four consecutive axles, having at least 40 inches from center of axle to center of axle, whose extreme centers are not more than 192 inches apart and are individually attached to or articulated from, or both, to the vehicle by a weight equalizing suspension system.

(20) Gauge--The transverse spacing distance between tires on an axle, expressed in feet and measured to the nearest inch, from center-of-tire to center-of-tire on an axle equipped with only two tires, or measured to the nearest inch from the center of the dual wheels on one side of the axle to the center of the dual wheels on the opposite side of the axle.

(21) Gross weight--The unladen weight of a vehicle or combination of vehicles plus the weight of the load being transported.

(22) Height pole--A device made of a non-conductive material, used to measure the height of overhead obstructions.

(23) Highway maintenance fee--A fee established by Transportation Code, §623.077, based on gross weight, and paid by the permittee when the permit is issued.

(24) Highway use factor--A mileage reduction figure used in the calculation of a permit fee for a permit issued under Transportation Code, §623.142 and §623.192.

(25) Hubometer--A mechanical device attached to an axle on a unit or a crane for recording mileage traveled.

(26) HUD number--A unique number assigned to a manufactured home by the U.S. Department of Housing and Urban Development.

(27) Indirect cost share--A prorated share of administering department activities, other than the direct cost of the activities, including the cost of providing statewide support services.

(28) Load-restricted bridge--A bridge that is restricted by the Texas Department of Transportation, under the provisions of Transportation Code, §621.102, to a weight limit less than the maximum amount allowed by Transportation Code, §621.101.

(29) Load-restricted road--A road that is restricted by the Texas Department of Transportation, under the provisions of Transportation Code, §621.102, to a weight limit less than the maximum amount allowed by Transportation Code, §621.101.

(30) Machinery plate--A license plate issued under Transportation Code, §502.146.

(31) Manufactured home--Manufactured housing, as defined in Occupations Code, Chapter 1201, and industrialized housing and buildings, as defined in Occupations Code, §1202.002, and temporary chassis systems, and returnable undercarriages used for the transportation of manufactured housing and industrialized housing and buildings, and a transportable section which is transported on a chassis system or returnable undercarriage that is constructed so that it cannot, without dismantling or destruction, be transported within legal size limits for motor vehicles.

(32) Motor carrier--A person that controls, operates, or directs the operation of one or more vehicles that transport persons or cargo over a public highway in this state, as defined by Transportation Code, §643.001 [in Chapter 218 of this title (relating to Motor Carriers)].

(33) Motor carrier registration (MCR)--The registration issued by the department to motor carriers moving intrastate, under authority of Transportation Code, Chapter 643 [as amended].

(34) Nighttime--The period beginning one-half hour after sunset and ending one-half hour before sunrise, as defined by Transportation Code, §541.401.

(35) Nondivisible load or vehicle--

(A) Any load or vehicle exceeding applicable length or weight limits which, if separated into smaller loads or vehicles, would:

(i) compromise the intended use of the vehicle, i.e., make it unable to perform the function for which it was intended;

(ii) destroy the value of the load or vehicle, i.e., make it unusable for its intended purpose; or

(iii) require more than eight workhours to dismantle using appropriate equipment. The applicant for a nondivisible load permit has the burden of proof as to the number of workhours required to dismantle the load.

(B) Emergency response vehicles, including those loaded with salt, sand, chemicals or a combination thereof, with or without a plow or blade attached in front, and being used for the purpose of spreading the material on highways that are or may become slick or icy.

(C) Casks designed for the transport of spent nuclear materials.

(D) Military vehicles transporting marked military equipment or materiel.

(36) Oil field rig-up truck--An unladen vehicle with an overweight single steering axle, equipped with a winch and set of gin poles used for lifting, erecting, and moving oil well equipment and machinery.

(37) Oil well servicing unit--An oil well clean-out unit, oil well drilling unit, or oil well swabbing unit, which is mobile equipment, either self-propelled or trailer-mounted, constructed as a machine used solely for cleaning-out, drilling, servicing, or swabbing oil wells, and consisting in general of, but not limited to, a mast, an engine for power, a draw works, and a chassis permanently constructed or assembled for this purpose.

(38) One trip registration--Temporary vehicle registration issued under Transportation Code, §502.095.

(39) Overdimension load--A vehicle, combination of vehicles, or vehicle and its load that exceeds maximum legal width, height, length, overhang, or weight as set forth by Transportation Code, Chapter 621, Subchapters B and C.

(40) Overhang--The portion of a load extending beyond the front or rear of a vehicle or combination of vehicles.

(41) Overheight--A vehicle or load that exceeds the maximum height specified in Transportation Code, §621.207.

(42) Overlength--A vehicle, combination of vehicles, or a vehicle or vehicle combination and its load that exceed(s) the maximum length specified in Transportation Code, §§621.203, 621.204, 621.205, and 621.206.

(43) Oversize load--A vehicle, combination of vehicles, or a vehicle or vehicle combination and its load that exceed(s) maximum legal width, height, length, or overhang, as set forth by Transportation Code, Chapter 621, Subchapter C.

(44) Overweight--A vehicle, combination of vehicles, or a vehicle or vehicle combination and its load that exceed(s) the maximum weight specified in Transportation Code, §621.101.

(45) Overwidth--A vehicle or load that exceeds the maximum width specified in Transportation Code, §621.201.

(46) Permit--Authority for the movement of an oversize and/or overweight vehicle, combination of vehicles, or a vehicle or vehicle combination and its load, issued by the department under Transportation Code, Chapter 623.

(47) Permit account card (PAC)--A debit card that can only be used to purchase a permit and which is issued by a financial institution that is under contract to the department and the Comptroller of Public Accounts.

(48) Permit officer--An employee of the department who is authorized to issue an oversize/overweight permit.

(49) Permit plate--A license plate issued under Transportation Code, §502.146, to a crane or an oil well servicing vehicle.

(50) Permitted vehicle--A vehicle, combination of vehicles, or vehicle and its load operating under the provisions of a permit.

(51) Permittee--Any person, firm, or corporation that is issued an oversize/overweight permit by the department.

(52) Pipe box--A container specifically constructed to safely transport and handle oil field drill pipe and drill collars.

(53) Portable building compatible cargo--Cargo, other than a portable building unit, that is manufactured, assembled, or distributed by a portable building unit manufacturer and is transported in combination with a portable building unit.

(54) Portable building unit--The pre-fabricated structural and other components incorporated and delivered by the manufacturer as a complete inspected unit with a distinct serial number whether in fully assembled, partially assembled, or kit (unassembled) configuration when loaded for transport.

(55) Principal--The person, firm, or corporation that is insured by a surety bond company.

(56) Roll stability support safety system--An electronic system that monitors vehicle dynamics and estimates the stability of a vehicle based on its mass and velocity, and actively adjusts vehicle systems including the throttle and/or brake(s) to maintain stability when a rollover risk is detected.

(57) [(56)] Shipper's certificate of weight--A form approved by the department in which the shipper certifies to the maximum weight of the shipment being transported.

(58) [(57)] Single axle--An assembly of two or more wheels whose centers are in one transverse vertical plane or may be included between two parallel transverse planes 40 inches apart extending across the full width of the vehicle.

(59) [(58)] Single-trip permit--A permit issued for an overdimension load for a single continuous movement over a specific route for an amount of time necessary to make the movement.

(60) [(59)] State highway--A highway or road under the jurisdiction of the Texas Department of Transportation.

(61) [(60)] State highway system--A network of roads and highways as defined by Transportation Code, §221.001.

(62) [(61)] Surety bond--An agreement issued by a surety bond company to a principal that pledges to compensate the Texas De-

partment of Transportation for any damage that might be sustained to the highways and bridges by virtue of the operation of the equipment for which a permit was issued. A surety bond is effective the day it is issued and expires at the end of the state fiscal year, which is August 31st. For example, if you obtain a surety bond on August 30th, it will expire the next day at midnight.

(63) [(62)] Tare weight--The empty weight of any vehicle transporting an overdimension load.

(64) [(63)] Temporary vehicle registration--A 72-hour temporary vehicle registration, 144-hour temporary vehicle registration, or one-trip registration[; as defined by Transportation Code, §502.094].

(65) [(64)] Three-axle group--Any three consecutive axles, having at least 40 inches from center of axle to center of axle, whose extreme centers are not more than 144 inches apart, and are individually attached to or articulated from, or both, to the vehicle by a weight equalizing suspension system.

(66) [(65)] Time permit--A permit issued for a specified period of time under §219.13 of this title (relating to Time Permits).

(67) [(66)] Tire size--The inches of lateral tread width.

(68) [(67)] Traffic control device--All traffic signals, signs, and markings, including their supports, used to regulate, warn, or control traffic.

(69) [(68)] Trailer mounted unit--An oil well clean-out, drilling, servicing, or swabbing unit mounted on a trailer, constructed as a machine used for cleaning out, drilling, servicing, or swabbing oil wells, and consisting in general of, but not limited to, a mast, an engine for power, a draw works, and a chassis permanently constructed or assembled for this purpose.

(70) [(69)] Truck--A motor vehicle designed, used, or maintained primarily for the transportation of property.

(71) Truck blind spot systems--Vehicle-based sensor devices that detect other vehicles or objects located to the driver's sides and rear. Warnings can be visual, audible, vibrating, or tactile.

(72) [(70)] Trunnion axle--Two individual axles mounted in the same transverse plane, with four tires on each axle, that are connected to a pivoting wrist pin that allows each individual axle to oscillate in a vertical plane to provide for constant and equal weight distribution on each individual axle at all times during movement.

(73) [(71)] Trunnion axle group--Two or more consecutive trunnion axles whose centers are at least 40 inches apart and which are individually attached to or articulated from, or both, to the vehicle by a weight equalizing suspension system.

(74) [(72)] Two-axle group--Any two consecutive axles whose centers are at least 40 inches but not more than 96 inches apart and are individually attached to or articulated from, or both, to the vehicle by a weight equalizing suspension system.

(75) [(73)] TxDOT--Texas Department of Transportation.

(76) [(74)] Unit--Oil well clean-out unit, oil well drilling unit, oil well servicing unit, and/or oil well swabbing unit.

(77) [(75)] Unladen lift equipment motor vehicle--A motor vehicle designed for use as lift equipment used solely to raise, shift, or lower heavy weights by means of a projecting, swinging mast with an engine for power on a chassis permanently constructed or assembled for such purpose.

(78) [(76)] USDOT Number--The United States Department of Transportation number.

(79) [(77)] Variable load suspension axles--Axles, whose controls must be located outside of and be inaccessible from the driver's compartment, that can be regulated, through the use of hydraulic and air suspension systems, mechanical systems, or a combination of these systems, for the purpose of adding or decreasing the amount of weight to be carried by each axle during the movement of the vehicle.

(80) [(78)] Vehicle identification number--A unique and distinguishing number assigned to a vehicle by the manufacturer or by the department in accordance with Transportation Code, §501.032 and §501.033.

(81) [(79)] Water Well Drilling Machinery--Machinery used exclusively for the purpose of drilling water wells, including machinery that is a unit or a unit mounted on a conventional vehicle or chassis.

(82) [(80)] Weight-equalizing suspension system--An arrangement of parts designed to attach two or more consecutive axles to the frame of a vehicle in a manner that will equalize the load between the axles.

(83) [(81)] Windshield sticker--Identifying insignia indicating that a permit has been issued in accordance with Subchapter C of this chapter.

(84) [(82)] Year--A time period consisting of 12 consecutive months that commences with the effective date stated in the permit.

(85) [(83)] 72-hour temporary vehicle registration--Temporary vehicle registration issued by the department authorizing a vehicle to operate at maximum legal weight on a state highway for a period not longer than 72 consecutive hours, as prescribed by Transportation Code, §502.094.

(86) [(84)] 144-hour temporary vehicle registration--Temporary vehicle registration issued by the department authorizing a vehicle to operate at maximum legal weight on a state highway for a period not longer than 144 consecutive hours, as prescribed by Transportation Code, §502.094.

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 February 15, 2018.

TRD-201800646

David D. Duncan

General Counsel

Texas Department of Motor Vehicles

Earliest possible date of adoption: April 1, 2018

For further information, please call: (512) 465-5665



SUBCHAPTER C. PERMITS FOR OVER AXLE AND OVER GROSS WEIGHT TOLERANCES

43 TAC §§219.34 - 219.36

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles (board) with the authority to adopt rules that

are necessary and appropriate to implement the powers and the duties of the department under the Transportation Code; Transportation Code, §623.002, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 623; and more specifically, Transportation Code §623.407(a), which requires the department to adopt rules that are necessary to implement Transportation Code, Chapter 623, Subchapter U, Vehicles Transporting Fluid Milk; and Transportation Code, §623.411(a), which requires the department to adopt rules that are necessary to implement Transportation Code, Chapter 623, Subchapter U, Intermodal Shipping Containers.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 621 and 623.

§219.34. *North Texas Intermodal Permit.*

(a) Purpose. This section prescribes the requirements, restrictions, and procedures regarding the annual permit for transporting an intermodal shipping container under the provisions of Transportation Code, §623.0172.

(b) Application for permit.

(1) To qualify for a North Texas intermodal permit, a person must submit an application to the department.

(2) The application shall be in a form prescribed by the department and at a minimum, will require the following:

(A) name and address of the applicant;

(B) name of contact person and telephone number or email address; and

(C) vehicle information, including vehicle year, make, license plate number and state of issuance, and vehicle identification number.

(3) The application shall be accompanied by the total annual permit fee of \$1,000.

(4) Fees for permits issued under this section are payable as required by §219.11(f) of this title (relating to General Oversize/Overweight Permit Requirements and Procedures).

(c) Amendments. An annual permit issued under this section will not be amended except in the case of department error.

(d) Transfer of permit. A permit issued under this section may only be transferred once during the term of the permit from one vehicle to another vehicle in the permittee's fleet provided:

(1) the permitted vehicle is destroyed or otherwise becomes permanently inoperable, to an extent that it will no longer be utilized, and the permittee presents proof that the negotiable title or other qualifying documentation, as determined by the department, has been surrendered to the department; or

(2) the title to the permitted vehicle is transferred to someone other than the permittee, and the permittee presents proof that the negotiable title or other qualifying documentation, as determined by the department, has been transferred from the permittee.

(e) Restrictions pertaining to road conditions. Movement of a permitted vehicle is prohibited when road conditions are hazardous based upon the judgment of the operator and law enforcement officials. Law enforcement officials shall make the final determination regarding whether or not conditions are hazardous. Conditions that should be considered hazardous include, but are not limited to:

(1) visibility of less than 2/10 of one mile; or

(2) weather conditions such as wind, rain, ice, sleet, or snow.

(f) Curfew restrictions. The operator of a permitted vehicle must observe the curfew movement restrictions published by the department.

(g) Construction or maintenance areas. The permitted vehicle may not travel through any state highway construction or maintenance area if prohibited by the construction restrictions published by the department.

(h) Night movement. Night movement is allowed under this permit, unless prohibited by the curfew movement restrictions published by the department.

(i) Manufacturer's tire load rating. Permits issued under this section do not authorize the vehicle to exceed the manufacturer's tire load rating.

(j) A truck-tractor and semitrailer combination is only eligible for a permit issued under this section if the truck-tractor is equipped with truck blind spot systems, and each vehicle in the combination is equipped with a roll stability support safety system.

(k) A truck-tractor and semitrailer combination is only eligible for a permit issued under this section if the distance between the front axle of the truck-tractor and the last axle of the semitrailer, measured longitudinally, is approximately 647 inches. For the purposes of this subsection, "approximately 647 inches" means the distance can be up to 10 percent above 647 inches for a total distance of 711.7 inches.

§219.35. Fluid Milk Transport Permit.

(a) Purpose. This section prescribes the requirements, restrictions, and procedures regarding the annual permit for transporting fluid milk under the provisions of Transportation Code, Chapter 623, Subchapter U, as added by Chapter 750 (S.B. 1383), Acts of the 85th Legislature, Regular Session, 2017.

(b) Application for permit.

(1) To qualify for a fluid milk transport permit, a person must submit an application to the department.

(2) The application shall be in a form prescribed by the department and at a minimum, will require the following:

(A) name and address of the applicant;

(B) name of contact person and telephone number or email address;

(C) vehicle information, including vehicle year, make, license plate number and state of issuance, and vehicle identification number; and

(D) a list of counties in which the vehicle will be operated.

(3) The application shall be accompanied by the total annual permit fee of \$1,200.

(4) Fees for permits issued under this section are payable as required by §219.11(f) of this title (relating to General Oversize/Overweight Permit Requirements and Procedures).

(c) Issuance and placement of permit and windshield sticker; restrictions.

(1) A permit and a windshield sticker will be issued once the application is approved, and each will be mailed to the applicant at the address contained in the application.

(2) The windshield sticker shall be affixed to the inside of the windshield of the vehicle in accordance with the diagram printed on the back of the sticker and in a manner that will not obstruct the vision of the driver. Any attempt to remove the sticker from the windshield will render the sticker void and will require a new permit and sticker.

(3) A replacement sticker for a lost, stolen, or mutilated windshield sticker may be issued, provided that the permittee submits a request on a form approved by the department which shall include a statement, signed by the permittee, affirming that the sticker was lost, stolen, or mutilated. The replacement sticker shall only be valid for the permitted vehicle.

(d) Amendments. An annual permit issued under this section will not be amended except in the case of department error.

(e) Transfer of permit. A permit issued under this section may only be transferred once during the term of the permit from one vehicle to another vehicle in the permittee's fleet provided:

(1) the permitted vehicle is destroyed or otherwise becomes permanently inoperable, to an extent that it will no longer be utilized, and the permittee presents proof that the negotiable title or other qualifying documentation, as determined by the department, has been surrendered to the department; or

(2) the title to the permitted vehicle is transferred to someone other than the permittee, and the permittee presents proof that the negotiable title or other qualifying documentation, as determined by the department, has been transferred from the permittee.

(f) Termination of permit. An annual permit issued under this section will automatically terminate, and the windshield sticker must be removed from the vehicle:

(1) on the expiration of the permit;

(2) when the lease of the vehicle expires;

(3) on the sale or other transfer of ownership of the vehicle for which the permit was issued; or

(4) on the dissolution or termination of the partnership, corporation, or other legal entity to which the permit was issued.

(g) Restrictions pertaining to road conditions. Movement of a permitted vehicle is prohibited when road conditions are hazardous based upon the judgment of the operator and law enforcement officials. Law enforcement officials shall make the final determination regarding whether or not conditions are hazardous. Conditions that should be considered hazardous include, but are not limited to:

(1) visibility of less than 2/10 of one mile; or

(2) weather conditions such as wind, rain, ice, sleet, or snow.

(h) Curfew restrictions. The operator of a permitted vehicle must observe the curfew movement restrictions published by the department.

(i) Construction or maintenance areas.

(1) The permitted vehicle may not travel through any state highway construction or maintenance area if prohibited by the construction restrictions published by the department.

(2) The permittee is responsible for contacting the appropriate local jurisdiction for construction or maintenance restrictions on non-state maintained roadways.

(j) Night movement. Night movement is allowed under this permit, unless prohibited by the curfew movement restrictions published by the department.

(k) Manufacturer's tire load rating. Permits issued under this section do not authorize the vehicle to exceed the manufacturer's tire load rating.

(l) A truck-tractor and semitrailer combination is only eligible for a permit issued under this section if the truck-tractor is equipped with truck blind spot systems, and each vehicle in the combination is equipped with a roll stability support safety system.

§219.36. Intermodal Shipping Container Port Permit.

(a) Purpose. This section prescribes the requirements, restrictions, and procedures regarding the annual permit for transporting an intermodal shipping container under the provisions of Transportation Code, Chapter 623, Subchapter U, as added by Chapter 108 (S.B. 1524), Acts of the 85th Legislature, Regular Session, 2017.

(b) Application for permit.

(1) To qualify for an intermodal shipping container port permit, a person must submit an application to the department.

(2) The application shall be in a form prescribed by the department and at a minimum, will require the following:

(A) name and address of the applicant;

(B) name of contact person and telephone number or email address;

(C) vehicle information, including vehicle year, make, license plate number and state of issuance, and vehicle identification number;

(D) a list of counties in which the vehicle will be operated; and

(E) a list of municipalities in which the vehicle will be operated.

(3) The application shall be accompanied by the total annual permit fee of \$6,000.

(4) Fees for permits issued under this section are payable as required by §219.11(f) of this title (relating to General Oversize/Overweight Permit Requirements and Procedures).

(c) Issuance and placement of permit and windshield sticker; restrictions.

(1) A permit and a windshield sticker will be issued once the application is approved, and each will be mailed to the applicant at the address contained in the application.

(2) The windshield sticker shall be affixed to the inside of the windshield of the vehicle in accordance with the diagram printed on the back of the sticker and in a manner that will not obstruct the vision of the driver. Any attempt to remove the sticker from the windshield will render the sticker void and will require a new permit and sticker.

(3) A replacement sticker for a lost, stolen, or mutilated windshield sticker may be issued, provided that the permittee submits a request on a form approved by the department which shall include a statement, signed by the permittee, affirming that the sticker was lost, stolen, or mutilated. The replacement sticker shall only be valid for the permitted vehicle.

(d) Amendments. An annual permit issued under this section will not be amended except in the case of department error.

(e) Transfer of permit. A permit issued under this section may only be transferred once during the term of the permit from one vehicle to another vehicle in the permittee's fleet provided:

(1) the permitted vehicle is destroyed or otherwise becomes permanently inoperable, to an extent that it will no longer be utilized, and the permittee presents proof that the negotiable title or other qualifying documentation, as determined by the department, has been surrendered to the department; or

(2) the title to the permitted vehicle is transferred to someone other than the permittee, and the permittee presents proof that the negotiable title or other qualifying documentation, as determined by the department, has been transferred from the permittee.

(f) Termination of permit. An annual permit issued under this section will automatically terminate, and the windshield sticker must be removed from the vehicle:

(1) on the expiration of the permit;

(2) when the lease of the vehicle expires;

(3) on the sale or other transfer of ownership of the vehicle for which the permit was issued; or

(4) on the dissolution or termination of the partnership, corporation, or other legal entity to which the permit was issued.

(g) Restrictions pertaining to road conditions. Movement of a permitted vehicle is prohibited when road conditions are hazardous based upon the judgment of the operator and law enforcement officials. Law enforcement officials shall make the final determination regarding whether or not conditions are hazardous. Conditions that should be considered hazardous include, but are not limited to:

(1) visibility of less than 2/10 of one mile; or

(2) weather conditions such as wind, rain, ice, sleet, or snow.

(h) Curfew restrictions. The operator of a permitted vehicle must observe the curfew movement restrictions published by the department.

(i) Construction or maintenance areas.

(1) The permitted vehicle may not travel through any state highway construction or maintenance area if prohibited by the construction restrictions published by the department.

(2) The permittee is responsible for contacting the appropriate local jurisdiction for construction or maintenance restrictions on non-state maintained roadways.

(j) Night movement. Night movement is allowed under this permit, unless prohibited by the curfew movement restrictions published by the department.

(k) Manufacturer's tire load rating. Permits issued under this section do not authorize the vehicle to exceed the manufacturer's tire load rating.

(l) A truck-tractor and semitrailer combination is only eligible for a permit issued under this section if the truck-tractor is equipped with truck blind spot systems, and each vehicle in the combination is equipped with a roll stability support safety system.

(m) A truck-tractor and semitrailer combination is only eligible for a permit issued under Transportation Code, §623.402(a) if the distance between the front axle of the truck-tractor and the last axle of the semitrailer, measured longitudinally, is approximately 647 inches. For the purposes of this subsection, "approximately 647 inches" means

the distance can be up to 10 percent above 647 inches for a total distance of 711.7 inches.

(n) A truck-tractor and semitrailer combination is only eligible for a permit issued under Transportation Code, §623.402(b) if the distance between the front axle of the truck-tractor and the last axle of the semitrailer, measured longitudinally, is approximately 612 inches. For the purposes of this subsection, "approximately 612 inches" means the distance can be up to 10 percent above 612 inches for a total distance of 673.2 inches.

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 February 15, 2018.

TRD-201800647

David D. Duncan

General Counsel

Texas Department of Motor Vehicles

Earliest possible date of adoption: April 1, 2018

For further information, please call: (512) 465-5665

