

STATUTORY AUTHORITY

The repeals are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department.

CROSS REFERENCE TO STATUTE

None.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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For further information, please call: (512) 463-8630



SUBCHAPTER F. SANCTIONS FOR ETHICAL VIOLATIONS BY OTHER ENTITIES

43 TAC §§10.251 - 10.254, 10.256, 10.257

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department.

CROSS REFERENCE TO STATUTE

None.

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43 TAC §10.255

STATUTORY AUTHORITY

The repeal is adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department.

CROSS REFERENCE TO STATUTE

None.

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PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 219. OVERSIZE AND OVERWEIGHT VEHICLES AND LOADS
SUBCHAPTER E. PERMITS FOR OVERSIZE AND OVERWEIGHT UNLADEN LIFT EQUIPMENT MOTOR VEHICLES

43 TAC §§219.60 - 219.64

The Texas Department of Motor Vehicles (department) adopts amendments to Chapter 219, Oversize and Overweight Vehicles and Loads, Subchapter E, Permits for Oversize and Overweight Unladen Lift Equipment Motor Vehicles, §219.61, General Requirements for Permits for Oversize and Overweight Unladen Lift Equipment Motor Vehicles; and §219.62, Single Trip Mileage Permits, with changes to the proposed text as published in the May 4, 2018, issue of the *Texas Register* (43 TexReg 2739). These rules will be republished. The department also adopts amendments to §219.60, Purpose and Scope; §219.63, Quarterly Hubometer Permits; and §219.64, Annual Permits, without changes to the proposed text, and these rules will not be republished.

The department republishes §219.61 with changes to the proposed text to address a comment from the Texas Crane Owners Association. The department also republishes §219.62 with changes to the proposed text to clarify that the language in the proposed subsection (b) after paragraph (b)(4) only applies if the applicant's crane has any group of axles that exceeds the limits established by Figure 1: 43 TAC §219.62(f), "Maximum Permit Weight Table," and Figure 2: 43 TAC §219.62(f), "Maximum Permit Weight Formulas."

EXPLANATION OF AMENDMENTS

The amendments authorize a crane that is permitted under Chapter 219, Subchapter E to travel with properly secured equipment in accordance with manufacturer's specifications to the extent the equipment is necessary for the crane to perform its intended function. For example, counterweights are necessary at the job site to stabilize the crane. The Federal Highway Administration (FHWA) authorizes the states to determine whether such equipment should travel with the crane or be removed for transport on a separate vehicle. Other states, such as Louisiana and Oklahoma, authorize properly secured equipment to be transported with the crane.

Industry representatives asked the department to consider amending our rules because the Texas rules are not consistent with the laws and rules of other states. Industry is required to comply with different standards when they cross the state line into Texas. The department adopts these amendments to allow properly secured equipment to be transported with the crane in accordance with the definition of a "nondivisible vehicle" in §219.2, provided the axle weights, axle group weights, and gross weight do not exceed the maximum permit weights listed in Subchapter E of Chapter 219. For example, a crane that must comply with the process and requirements under §219.62(b)(4) is not allowed to transport properly secured equipment on the crane. The equipment must be transported on a separate vehicle.

The Specialized Carriers & Rigging Association submitted a letter to the FHWA in March of 2018, requesting clarification on the definition of "nondivisible load." The FHWA responded in April of 2018, authorizing a state to issue a special permit if the applicant presented evidence or information demonstrating that a vehicle or load meets one of the three criteria listed in the federal definition for "nondivisible load or vehicle" found in 23 C.F.R. §658.5. The FHWA also stated as follows:

"When the final rule establishing the definition of nondivisible was issued in 1994, it was anticipated that because of the complexity, there would be inconsistencies and disagreements between State permitting officials, enforcement officers, motor carriers, and shippers. In light of this potential, the Federal definition provides States latitude in implementing the definition. Unless there are indications of non-enforcement or abuse, FHWA does not intervene in decisions related to the issuance of permits for specific vehicles or loads."

The department thinks the language in §219.61(g) complies with the definition of "nondivisible load or vehicle" found in 23 C.F.R. §658.5 and 43 TAC §219.2. The language in §219.61(g) is limited to equipment that is necessary for the crane to perform its intended function. Also, the language is limited to equipment for which the manufacturer provided specifications to properly secure the equipment.

The department adopts other amendments because it received calls from industry and law enforcement after drivers were stopped by law enforcement for traveling at nighttime without a front and rear escort vehicle when the permitted crane (annual permit) was overweight, but did not exceed legal size limits under Transportation Code, Chapter 621, Subchapter C. Except as otherwise specified in Chapter 219, Subchapter E, amendments authorize a permitted crane to travel at nighttime without a front or rear escort vehicle if the crane is overweight, but does not exceed certain size limits. These amendments are consistent with the language in §219.11(l)(2) (A)(i) regarding certain vehicles that are overweight only, and §219.41(d)(4) regarding certain vehicles that exceed certain size limits, regardless of weight. A front and rear escort vehicle is not required to protect the safety of the traveling public or to protect the roadways from an overweight crane, except as otherwise specified in Chapter 219, Subchapter E. The language in §219.62 and §219.63 will continue to require a crane that exceeds 175,000 pounds gross weight to have a front and rear escort vehicle to prevent traffic from traveling beside the crane as it crosses a bridge.

A front and rear escort vehicle is needed to protect the safety of the traveling public when the permitted crane is traveling at nighttime and exceeds the size limits listed in amended §219.61(d)(3)(B)(ii). The amendments provide uniform require-

ments for permitted cranes to travel at nighttime, including some requirements that were previously only listed on the department's website.

Other amendments improve the terminology, correct errors, modify the language for consistency with other rules in Chapter 219, delete language that duplicates language in Chapter 219 or in statute, make the rules consistent with current practice, and restructure portions of Chapter 219 due to deletions.

COMMENTS

Transportation Code, §623.195 requires the board of the Texas Department of Motor Vehicles (board) to consult with the Texas Transportation Commission (commission) prior to the adoption of certain rules regarding oversize and overweight permits for the operation of cranes. The commission considered the proposed amendments during its open meeting on July 26, 2018, and issued a Minute Order to document compliance with Transportation Code, §623.195, and to indicate that the Texas Department of Transportation staff did not have any comments on the proposed amendments.

The Texas Crane Owners Association (TCOA) submitted a comment in which they request the department to modify the proposed amendments to allow cranes that do not exceed nine feet in width, 14 feet in height, or 65 feet in length to operate during nighttime without escort vehicles, regardless of the weight of the crane. TCOA also states that cranes that fall within these dimensions but exceed 175,000 pounds should adhere to the existing rules pertaining to crossing bridges. TCOA further states this modification is consistent with the rule for oil well servicing units.

RESPONSE

The department adopts §219.61 with amendments to allow cranes that do not exceed nine feet in width, 14 feet in height, or 65 feet in length to operate during nighttime without escort vehicles, regardless of the weight of the crane. This language is consistent with the language in §219.41(d)(4) regarding permits for oversize and overweight oil well related vehicles. The Texas Department of Transportation adopted the language in the current §219.41(d)(4), which was transferred to the department in 2012 by Senate Bill 1420, 82nd Legislature, 2011. The oil well related vehicles have been allowed to travel on public roadways at nighttime within the listed dimensions for years, and the department has no evidence that such travel causes any safety issues. Also, the department conferred with the Texas Department of Public Safety (TxDPS) regarding TCOA's requested amendment, and TxDPS thinks the request seems reasonable.

Any cranes permitted under §219.62 and §219.63, will continue to be subject to the existing rule language in §219.62 and §219.63, which require a crane that exceeds 175,000 pounds gross weight to have a front and rear escort vehicle to prevent traffic from traveling beside the crane as it crosses a bridge, regardless of whether the crane is being operated during daylight or nighttime. The amendments do not eliminate any other restrictions or requirements that apply to permitted cranes under Subchapter E of Chapter 219, such as the restrictions specified in §219.61(d), which include curfew restrictions.

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §1002.001, which provides the board with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and more specifically,

Transportation Code, §623.002 which authorizes the board to adopt rules that are necessary to implement and enforce Chapter 623; and Transportation Code §623.195 which authorizes the board to adopt rules to provide for the issuance of crane permits under Subchapter J of Chapter 623.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapter 623.

§219.61. *General Requirements for Permits for Oversize and Overweight Unladen Lift Equipment Motor Vehicles.*

(a) General information.

(1) Unless otherwise noted, permits issued under this subchapter are subject to the requirements of this section.

(2) Cranes are eligible for an annual permit under this subchapter.

(3) Cranes are also eligible for the following permits under this subchapter at weights above those established by §219.11(d)(2) of this title (relating to General Oversize/Overweight Permit Requirements and Procedures):

(A) single-trip mileage permits; and

(B) quarterly hubometer permits.

(4) If a truck-tractor is used to transport a trailer-mounted crane, the combination of vehicles is limited to the dimensions and weights listed in this subchapter.

(b) Permit application. An application shall be made on a form and in a manner prescribed by the department. The applicant shall provide all applicable information, including:

(1) name, address, telephone number, and email address (if requested) of the applicant;

(2) year and make of the crane;

(3) vehicle identification number of the crane;

(4) width, height, and length of the crane;

(5) crane axle and tire information, including the number of axles, distance between axles, gauge per axle, axle weights, number of tires, and tire size; and

(6) any other information required by law.

(c) Payment of permit fees. Fees for permits issued under this subchapter are payable as described in §219.11(f).

(d) Restrictions.

(1) A crane permitted under this subchapter is subject to the restrictions specified in §219.11(l)(1), (3), and (4), and the permittee is responsible for obtaining information concerning current restrictions from the department.

(2) A crane permitted under this subchapter may travel through highway construction or maintenance areas provided the dimensions do not exceed the construction restrictions as published by the department.

(3) A crane permitted under this subchapter may only be operated during daylight, unless:

(A) the crane is overweight only; or

(B) the crane complies with one of the following, regardless of whether the crane is overweight:

(i) the crane does not exceed nine feet in width, 14 feet in height, or 65 feet in length; or

(ii) the crane is accompanied by a front and rear escort vehicle and does not exceed:

(I) 10 feet, 6 inches in width;

(II) 14 feet in height; or

(III) 95 feet in length.

(e) Transferability. Unless otherwise noted, a permit issued under this subchapter may not be transferred between cranes or between permittees.

(f) Escort requirements. In addition to any other escort requirements specified in this subchapter, cranes permitted under this subchapter are subject to the escort requirements specified in §219.11(k).

(g) Properly secured equipment. A crane permitted under this subchapter may travel with properly secured equipment, such as outriggers, booms, counterweights, jibs, blocks, balls, cribbing, outrigger pads, and outrigger mats, in accordance with the manufacturer's specifications to the extent the equipment is necessary for the crane to perform its intended function, provided the axle weights, axle group weights, and gross weight do not exceed the maximum permit weights listed in this subchapter.

§219.62. *Single-Trip Mileage Permits.*

(a) General information.

(1) Permits issued under this section are subject to the requirements of §219.61 of this title (relating to General Requirements for Permits for Oversize and Overweight Unladen Lift Equipment Motor Vehicles).

(2) A single-trip mileage permit:

(A) is limited to a maximum of seven consecutive days;

(B) is routed from the point of origin to the point of destination and has the route listed on the permit; and

(C) allows the crane to be returned to the point of origin on the same permit, provided the return trip is made within the time period stated in the permit.

(3) A crane exceeding 175,000 pounds gross weight must:

(A) have front and rear escort vehicles to prevent traffic from traveling beside the crane as it crosses a bridge;

(B) cross all multi-lane bridges by centering the crane on a lane line;

(C) cross all two-lane bridges in the center of the bridge; and

(D) cross each bridge at a speed not greater than 20 miles per hour.

(4) A crane exceeding 12 feet in width must be centered in the outside traffic lane of any highway that has paved shoulders.

(5) Except as otherwise provided in this section, the permitted crane must not cross a load-restricted bridge when exceeding the posted capacity of the bridge.

(b) Maximum permit weight limits.

(1) The maximum permit weight for any single axle must not exceed 30,000 pounds or 850 pounds per inch of tire width, whichever is less.

(2) The maximum permit weight for any group of axles on a crane is determined by calculating the "W" weight for the group, using the formulas shown in Figure 2: 43 TAC §219.62(f), "Maximum Permit Weight Formulas," and comparing the calculated "W" weight with the corresponding "W" weight that is established in Figure 1: 43 TAC §219.62(f), "Maximum Permit Weight Table."

(3) The maximum permit weight per inch of tire width for axles that are steerable must not exceed 950 pounds, and the maximum permit weight per inch of tire width for axles that are not steerable must not exceed 850 pounds.

(4) An applicant with a crane that has any group of axles that exceeds the limits established by Figure 1: 43 TAC §219.62(f), "Maximum Permit Weight Table," and Figure 2: 43 TAC §219.62(f), "Maximum Permit Weight Formulas," must comply with the following process and requirements:

(A) submit the following to the department to determine if a permit can be issued:

(i) a detailed diagram, on a form prescribed by the department, which illustrates the required information listed in §219.61(b)(5);

(ii) the exact beginning and ending points relative to a state highway; and

(iii) the name and contact information of the applicant's TxDOT-approved licensed professional engineer.

(B) The department will select and provide the applicant with a tentative route based on the size of the crane, excluding the weight. The applicant must inspect the tentative route and advise the department, in writing, that the route is capable of accommodating the crane.

(C) Before the department will issue a permit, the applicant's TxDOT-approved licensed professional engineer must submit to TxDOT a written certification that includes a detailed structural analysis of the bridges on the proposed route demonstrating that the bridges and culverts on the travel route are capable of sustaining the crane. The certification must be approved by TxDOT and submitted to the department before the department will issue the permit.

(c) Permit application and issuance.

(1) An application for a single-trip mileage permit under this section must be made in accordance with §219.61(b) of this title and must also include the origin and destination points of the crane.

(2) Upon receipt of the application, the department will review and verify size and weight information, check the route and mileage to be traveled, compute the permit fee, and advise the applicant of the permit fee.

(3) Upon receipt of the permit fee, the department will advise the applicant of the permit number and will provide a copy of the permit to the applicant.

(d) Permit fees and refunds.

(1) Minimum fee. The minimum fee for a single-trip mileage permit is either the calculated permit fee or \$31, whichever is the greater amount.

(2) Permit fee calculation. The permit fee for a single-trip mileage permit is calculated by multiplying the number of miles traveled, the highway use factor, and the total rate per mile, and then adding the indirect cost share to the product.

(A) Highway use factor. The highway use factor for a single-trip mileage permit is 0.6.

(B) Total rate per mile. The total rate per mile is the combined mileage rates for width, height, and weight for the crane. The rate per mile for a trailer-mounted crane is based on the overall width, overall height, and all axle weights, including the truck-tractor axles.

(i) The mileage rate for width is \$.06 per mile for each foot (or fraction thereof) above legal width.

(ii) The mileage rate for height is \$.04 per mile for each foot (or fraction thereof) above legal height.

(iii) The mileage rate for a single axle or any axle within a group that exceeds 20,000 pounds, but is less than or equal to 25,000 pounds, is calculated by multiplying \$.045 times the amount by which the axle or axle group weight exceeds the legal weight for the axle or axle group and dividing the resultant figure by 1,000 pounds.

(iv) The mileage rate for a single axle or any axle within a group that exceeds 25,000 pounds, but is less than or equal to 30,000 pounds, is calculated by multiplying \$.055 times the amount by which the axle or axle group weight exceeds the legal weight for the axle or axle group and dividing the resultant figure by 1,000 pounds.

(3) Exceptions to fee computations. A crane with two or more axle groups that does not have a spacing of at least 12 feet between the closest axles of the opposing groups must have the permit fee calculated by the following method.

(A) The axle group with the lowest weight will have the axle closest to the next axle group temporarily disregarded from its group in order to create a spacing of at least 12 feet between the two groups for fee calculation purposes.

(B) An axle group will not have more than one axle disregarded.

(C) The permit fee for the axle group with the temporarily disregarded axle must be based on the actual weight of the entire axle group minus the legal weight for the remaining axles of the group.

(4) Refunds. Fees for permits issued under this section are non-refundable.

(e) Amendments. A single-trip mileage permit issued under this section may not be amended unless an exception is granted by the department.

(f) Weight table and formulas. The following table entitled "Maximum Permit Weight Table" is Figure 1: 43 TAC §219.62(f), and the list of formulas entitled "Maximum Permit Weight Formulas," is Figure 2: 43 TAC §219.62(f).

Figure 1: 43 TAC §219.62(f) (No change.)

Figure 2: 43 TAC §219.62(f) (No change.)

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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