

(B) a statement that the insurance company paid a loss claim for the vehicle that was accepted; and

~~{(B) a copy of a document;}~~

~~{(i) indicating that payment has been made, including an electronic check, canceled check, or screen print from the insurance company's database that identifies the type of payment method; and}~~

~~{(ii) reflecting the vehicle identification number, vehicle owner names, name of the person to whom payment was made if different from vehicle owners, payment amount, and date payment was issued; and}~~

(C) any unassigned or improperly assigned title in the insurance company's possession.

(3) An insurance company that acquires, through payment of a claim, ownership or possession of a salvage motor vehicle or non-repairable motor vehicle covered by an out-of-state ownership document may obtain a salvage vehicle title or nonrepairable vehicle title in accordance with paragraph (1) or (2) of this subsection if:

(A) the motor vehicle was damaged, stolen, or recovered in this state; or

(B) the motor vehicle owner from whom the company acquired ownership resides in this state.

(4) A salvage pool operator may apply for title in the name of the salvage pool operator by providing to the department:

(A) documentation from the insurance company that:

(i) the salvage pool operator, on request of an insurance company, was asked to take possession of the motor vehicle subject to an insurance claim and the insurance company subsequently denied coverage or did not take ownership of the vehicle; and

(ii) the name and address of the owner of the motor vehicle and the lienholder, if any; and

(B) proof that the salvage pool operator, before the 31st day after receiving the information from the insurance company, sent a notice to the owner and any lienholder informing them that:

(i) the motor vehicle must be removed from the location specified in the notice not later than the 30th day after the date the notice is mailed; and

(ii) if the motor vehicle is not removed within the time specified in the notice, the salvage pool operator will sell the motor vehicle and retain from the proceeds any costs actually incurred by the operator in obtaining, handling, and disposing of the motor vehicle, except for charges:

(I) that have been or are subject to being reimbursed by a third party; and

(II) for storage or impoundment of the motor vehicle.

(5) Proof of notice under this subsection consists of:

(A) the validated receipts for registered or certified mail and return receipt or an electronic certified mail receipt, including signature receipt; and

(B) any unopened certified letters returned by the post office as unclaimed, undeliverable, or with no forwarding address.

(e) Recordation of lien on nonrepairable and salvage vehicle titles. If the motor vehicle is a salvage motor vehicle, a new lien or

a currently recorded lien may be recorded on the salvage vehicle title. If the motor vehicle is a nonrepairable motor vehicle, only a currently recorded lien may be recorded on the nonrepairable vehicle title.

(f) Issuance. Upon receipt of a completed nonrepairable or salvage vehicle title application, accompanied by the statutory application fee and the required documentation, the department will, before the sixth business day after the date of receipt, issue a nonrepairable or salvage vehicle title, as appropriate.

(1) If the condition of salvage is caused exclusively by flood, a "Flood Damage" notation will be reflected on the face of the document and will be carried forward upon subsequent title issuance.

(2) If a lien is recorded on a nonrepairable or salvage vehicle title, the vehicle title will be mailed to the lienholder. For proof of ownership purposes, the owner will be mailed a receipt or printout of the newly established motor vehicle record, indicating a lien has been recorded.

(3) A nonrepairable vehicle title will state on its face that the motor vehicle may:

(A) not be repaired, rebuilt, or reconstructed;

(B) not be issued a regular certificate of title or registered in this state;

(C) not be operated on a public highway; and

(D) may only be used as a source for used parts or scrap metal.

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 October 15, 2018.

TRD-201804496

Sarah Swanson

Interim General Counsel

Texas Department of Motor Vehicles

Earliest possible date of adoption: November 25, 2018

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



CHAPTER 219. OVERSIZE AND OVERWEIGHT VEHICLES AND LOADS

SUBCHAPTER G. RECORDS AND INSPECTIONS

43 TAC §219.101

The Texas Department of Motor Vehicles (department) proposes amendments to Chapter 219, Oversize and Overweight Vehicles and Loads, Subchapter G, Records and Inspections, §219.101, Investigations and Inspections of Records.

EXPLANATION OF PROPOSED AMENDMENTS

The department is conducting a rule review in compliance with Government Code, §2001.039. Notice of the department's intent to review Chapter 219 is published in the Review of Agency Rules section of this issue of the *Texas Register*.

As a result of the review, the department has determined that §219.101 should be amended. Proposed amendments make

§219.101(c) consistent with the language in 43 TAC §218.31(d) by removing the word "certified" and giving the department the flexibility to send the notice regarding an inspection or investigation of records by regular mail or email. Section 219.101 currently authorizes the department to send the notice by certified mail or facsimile.

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 significant fiscal implications for state or local governments as a result of enforcing or administering the proposed amendments.

Corrie Thompson, Director of the Enforcement 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

Ms. Thompson 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 greater flexibility regarding the method by which the department can send notice regarding an inspection or investigation of records. 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 Sarah Swanson, Interim 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 November 26, 2018.

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; and more specifically, Transportation Code, §623.002, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 623.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapter 623, Subchapter N.

§219.101. *Investigations and Inspections of Records.*

(a) Inspections.

(1) A person shall give an inspector access to the person's premises to conduct inspections or investigations of an alleged violation of this chapter or Transportation Code, Chapters 621, 622, or 623. The person shall provide adequate workspace with reasonable working conditions and shall allow the inspector to copy and verify records.

(2) The inspector will conduct inspections and investigations during normal business hours unless mutual arrangements have been made otherwise.

(3) The inspector will present to the person the inspector's credentials and a written statement from the department indicating the inspector's authority to conduct the investigation.

(b) Access.

(1) Except as provided by paragraph (2) of this subsection, a person shall provide access to requested records at:

(A) the person's principal place of business; or

(B) a location in this state agreed to by the department and the person.

(2) If the person's principal place of business is located outside of this state, the person may choose to make the records available at an out-of-state location agreed to by the department and the person but only if the person agrees to reimburse the department for necessary travel expenses and for a per diem as set by legislative appropriation for each day that an inspection or investigation related to the records or information is conducted.

(3) If the requested records are maintained at the person's principal place of business in this state, the person shall make those records available to the inspector immediately after the department requests the records. If the records are maintained at a regional office or driver work-reporting location or if the person's principal place of business is located outside of this state, the person shall make the records available at the person's principal place of business or the agreed location at a time agreed to by the department and the person within 48 hours after the time that the department makes the request. Saturdays, Sundays, and federal and state holidays are excluded from the computation of the 48-hour period.

(c) If a time or location cannot be agreed upon under subsection (b) of this section, the department shall designate the time or location by [~~certified~~] mail, email, or facsimile.

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

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Sarah Swanson
Interim General Counsel
Texas Department of Motor Vehicles
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