

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

Page 1 of 1

ALL Districts

The Texas Transportation Commission (commission) finds it necessary to adopt new sections §§28.110 - 28.117 relating to Port of Harlingen Authority Permits to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted new sections, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the general counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

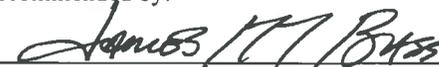
IT IS THEREFORE ORDERED by the commission that the new §§28.110 – 28.117 are adopted and are authorized for filing with the Office of Secretary of State.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:


Director, Maintenance Division

Recommended by:


Executive Director

114735 OCT 27 '16
Minute Date
Number Passed

1 Adoption Preamble

2 The Texas Department of Transportation (department) adopts new
3 §§28.110 - 28.117, concerning Port of Harlingen Authority
4 Permits. New §§28.110 - 28.117 are adopted without changes to
5 the proposed text as published in the August 12, 2016, issue of
6 the *Texas Register* (41 TexReg 5986) and will not be republished.

7

8 EXPLANATION OF ADOPTED NEW SECTIONS

9 Under Transportation Code, Chapter 623, Subchapter K, the Texas
10 Transportation Commission (commission) has the authority to
11 authorize Port of Harlingen Authority (Authority) to issue
12 permits for oversize and overweight vehicles on certain roads
13 within the Authority. The Authority contacted the department
14 and expressed the desire to obtain the authority needed to issue
15 permits as allowed under current state law. The adopted new
16 sections are necessary to authorize the Authority to issue
17 permits and to implement and carry out the provisions of
18 Transportation Code, Chapter 623, Subchapter K. These rules add
19 new Subchapter I which was developed to be consistent with
20 similar optional permitting programs previously established by
21 the commission.

22

23 New §28.110 sets out the purpose of Subchapter I, which is to
24 allow the Authority to issue permits for the movement of
25 oversize or overweight vehicles weighing up to 125,000 pounds on

1 roads designated by Transportation Code, §623.219(a)(2)(B), (C),
2 (D), and (E).

3

4 New §28.111 sets out the applicable definitions used in the
5 subchapter by defining the Port of Harlingen as the "Authority."

6

7 New §28.112 provides the powers and duties of the Authority and
8 the department for the implementation and oversight of the
9 Authority's permit program. Subsection (a) authorizes the
10 issuance of permits and collection of fees and provides the
11 maximum dimensions and gross weight that may be allowed under a
12 permit. Subsection (b) authorizes the department to require a
13 surety bond to pay for the costs of the maintenance of the
14 roadways that are used by the permitted vehicles if the amount
15 of the fees deposited in the state highway fund is not
16 sufficient to cover those costs. The Authority can prevent
17 recovery on the bond by paying the amount not covered by the
18 fees. This section also covers the verification of permits, the
19 provision of training necessary for the Authority to issue
20 permits, accounting and auditing requirements, and audits.
21 Subsection (g) provides the department's authority to ensure
22 that the Authority complies with applicable law, including the
23 rules in new Subchapter I. Subsection (h) sets out the fee
24 requirements. Subsection (i) requires the Authority to enter
25 into a contract with the department for the maintenance of roads

1 on which the permitted vehicles will travel. Finally,
2 subsection (j) sets out the Authority's reporting requirements.
3 The provisions of the section were developed to be in compliance
4 with Transportation Code, Chapter 623, Subchapter K, and to be
5 consistent with similar optional permitting programs previously
6 established.

7
8 New §28.113 establishes the eligibility requirements that must
9 be satisfied for the issuance of a permit by the Authority. The
10 section prohibits the Authority from issuing a permit to a
11 person or for a vehicle if administrative penalties imposed
12 under Transportation Code, §623.271 have not been paid. This
13 prohibition is required under Transportation Code, §623.271.

14
15 New §28.114 sets out the requirements related to the form and
16 content of the application for a permit. The requirements are
17 necessary to comply with Transportation Code §623.215 and are as
18 consistent as possible with similar optional permitting programs
19 previously established by the department.

20
21 New §28.115 provides the permit weight limits for axles that the
22 Authority must follow as part of the permit program.

23 Requirements and specifications include minimum axle group
24 spacing and maximum permit weight for single and multiple axles.

25

1 New §28.116 sets forth movement requirements and restrictions
2 that the Authority and a permittee must follow as part of the
3 permit program. A permittee is required to carry the issued
4 permit when moving the permitted vehicle and is prohibited under
5 this section from moving an oversize or overweight load if a
6 permit becomes void. A permit is void on issuance if the
7 applicant for the permit gives false or incorrect information
8 and becomes void when the permittee fails to comply with the
9 restrictions or conditions stated in the permit or when the
10 permittee changes or alters the information in the permit. The
11 section provides limitations on the movement of a permitted
12 vehicle because of weather conditions, road work, or time of
13 day. Finally, the section sets out the requirements for types
14 of scales that may be used to weigh permitted vehicles and
15 provides speed restrictions.

16

17 New §28.117 provides the records maintenance requirements that
18 the Authority must follow as part of the permit process to
19 ensure the department has adequate access to oversee the
20 program.

21

22 COMMENTS

23 No comments on the proposed new sections were received.

24

25 STATUTORY AUTHORITY

1 The new sections are adopted under Transportation Code,
2 §201.101, which provides the commission with the authority to
3 establish rules for the conduct of the work of the department,
4 and more specifically, Transportation Code, §623.212, which
5 allows the commission to authorize the authority to issue
6 permits for the movement of oversize or overweight vehicles, and
7 Transportation Code, §623.002, which provides the commission
8 with the authority to establish rules necessary to implement
9 Transportation Code, Chapter 623.

10

11 CROSS REFERENCE TO STATUTE

12 Transportation Code, Chapter 623, Subchapter K.

1 SUBCHAPTER I. PORT OF HARLINGEN AUTHORITY PERMITS

2 §28.110. Purpose. In accordance with Transportation Code,
3 Chapter 623, Subchapter K, the commission may authorize Port of
4 Harlingen Authority to issue permits for the movement of
5 oversize or overweight vehicles carrying cargo on roads
6 designated by Transportation Code, §623.219(a)(2)(B), (C), (D),
7 and (E). This subchapter sets forth the requirements and
8 procedures applicable to the issuance of permits by Port of
9 Harlingen Authority for the movement of oversize and overweight
10 vehicles.

11
12 §28.111. Definition. In this subchapter, "Authority" means
13 Port of Harlingen Authority.

14
15 §28.112. Authority's Powers and Duties.

16 (a) Authority authorized to issue permits. The Authority
17 may issue a permit and collect a fee for the movement on roads
18 designated by Transportation Code, §623.219(a)(2)(B), (C), (D),
19 and (E) of a vehicle or vehicle combination that exceeds the
20 vehicle size or weight limits specified by Transportation Code,
21 Chapter 621, Subchapters B and C, but does not exceed loaded
22 dimensions of 12 feet wide, 16 feet high, and 110 feet long, and
23 does not exceed 125,000 pounds gross weight.

1 (b) Surety bond. The department may require the Authority
2 to post a surety bond in the amount of \$500,000 for the
3 reimbursement of the department for actual maintenance costs of
4 roads designated by Transportation Code, §623.219(a)(2)(B), (C),
5 (D), and (E) if revenue collected from permits issued under this
6 subchapter is insufficient to pay for those costs and the
7 Authority fails to reimburse the department for those costs.
8 The estimated maintenance costs will be based on the amortized
9 cost of the identified roads, projected regular maintenance and
10 operations costs, and the bridge consumption costs associated
11 with the movement of overweight and oversize vehicles issued a
12 permit by the Authority.

13 (c) Verification of permits. The Authority shall provide
14 law enforcement and department personnel access to any of the
15 Authority's property to verify compliance with this subchapter
16 by the Authority or another person.

17 (d) Training. The Authority shall provide or obtain any
18 training necessary for personnel to issue permits under this
19 subchapter. The department may provide assistance with training
20 on request by the Authority.

21 (e) Accounting. The Authority must comply with the
22 department's accounting procedures for revenue collections and
23 payments made to the department under subsection (i) of this

1 section.

2 (f) Audits. The department may conduct audits annually or
3 at the direction of the executive director of all permit
4 issuance activities of the Authority. To insure compliance with
5 applicable law, audits at a minimum will include a review of all
6 permits issued, financial transaction records related to permit
7 issuance and vehicle scale weight tickets, and the monitoring of
8 personnel issuing permits under this subchapter.

9 (g) Revocation of authority to issue permits. If the
10 department determines as a result of an audit that the Authority
11 is not complying with this subchapter or other applicable law,
12 the executive director will issue a notice to the Authority
13 allowing 30 days for the Authority to correct any non-compliance
14 issue. If the department determines that, after that 30-day
15 period, the Authority has not corrected the issue, the executive
16 director may revoke the Authority's authority to issue permits
17 under this subchapter. The Authority may appeal to the
18 commission in writing the revocation of its authority under this
19 subsection. If the Authority appeals the revocation, the
20 Authority's authority to issue permits under this subchapter
21 remains in effect until the commission makes a final decision on
22 the appeal.

23 (h) Fees. Fees under this subchapter may be collected,

1 deposited, and used only as provided by Transportation Code,
2 §623.214. The Authority may determine acceptable methods of
3 payment. All fees transmitted to the department must be in U.S.
4 currency. On revocation of the Authority's authority to issue
5 permits, termination of the maintenance contract entered into
6 under subsection (i) of this section, or expiration of this
7 subchapter, the Authority shall pay to the department all permit
8 fees collected by the Authority, less allowable administrative
9 costs.

10 (i) Maintenance agreement. The Authority shall enter into
11 an agreement with the department for the maintenance of roads
12 designated by Transportation Code, §623.219(a)(2)(B), (C), (D),
13 and (E) for which a permit may be issued under this subchapter.
14 The contract will cover routine maintenance, preventive
15 maintenance, and total reconstruction of the roadway and bridge
16 structures, as determined by the department to maintain the
17 current level of service, and may include other types of
18 maintenance.

19 (j) Reporting. The Authority shall provide monthly and
20 annual reports to the department's Financial Management Division
21 regarding all permits issued and all fees collected during the
22 period covered by the report. The report must be in a format
23 approved by the department.

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§28.113. Permit Eligibility.

(a) Registration requirements. To be eligible for a permit under this subchapter:

(1) a vehicle or combination of vehicles must be registered under Transportation Code, Chapter 502; and

(2) the owner of the vehicle or combination of vehicles must be registered as a motor carrier under Transportation Code, Chapter 643 or 645.

(b) Prohibition for unpaid penalties. The Authority may not issue a permit under this subchapter:

(1) to a person or company that is prohibited under Transportation Code, §623.271 from being issued a permit; or

(2) for a vehicle that is prohibited under Transportation Code, §623.271 from being issued a permit.

§28.114. Permit Issuance Requirements and Procedures.

(a) Permit application. Application for a permit issued under this subchapter must be in a form approved by the department and at a minimum must include:

(1) the name of the applicant;

(2) the name of the driver of the vehicle in which the cargo is to be transported;

1 (3) a description of the kind of cargo to be
2 transported;

3 (4) the kind and weight of each commodity to be
4 transported;

5 (5) the maximum weight and dimensions of the proposed
6 vehicle combination, including number of tires on each axle,
7 tire size for each axle, distance between each axle measured
8 from center of axle to center of axle, and the specific weight
9 of each individual axle when loaded;

10 (6) the route the carrier will travel on roads
11 designated by Transportation Code, §623.219(a)(2)(B), (C), (D),
12 and (E);

13 (7) the date or dates on which movement is requested.

14 (b) Permit form and contents. A permit issued under this
15 subchapter must be in a form approved by the department and at a
16 minimum must include all information required under
17 Transportation Code, §623.215(a) and §623.216.

18
19 §28.115. Permit Weight Limits for Axles.

20 (a) Minimum axle group spacing. For an axle group to be
21 permitted for maximum weight authorized under this section:

22 (1) an axle group must have a minimum spacing of four
23 feet, measured from center of axle to center of axle, between

1 each axle in the group; and

2 (2) two or more consecutive axle groups must have a
3 minimum axle spacing of 12 feet, measured from center of the
4 last axle of a group to center of the first axle of the
5 immediately following group.

6 (b) Maximum permit weight. Maximum permit weight for an
7 axle or axle group is the weight computed by multiplying 650
8 pounds times the total number of inches of the width of tires on
9 the axle or group or the following applicable axle or axle group
10 weight, whichever is less:

11 (1) single axle - 25,000 pounds;

12 (2) two-axle group - 46,000 pounds;

13 (3) three-axle group - 60,000 pounds;

14 (4) four-axle group - 70,000 pounds;

15 (5) five-axle group - 81,400 pounds; or

16 (6) trunnion axles - 60,000 pounds if:

17 (A) the trunnion configuration has two axles;

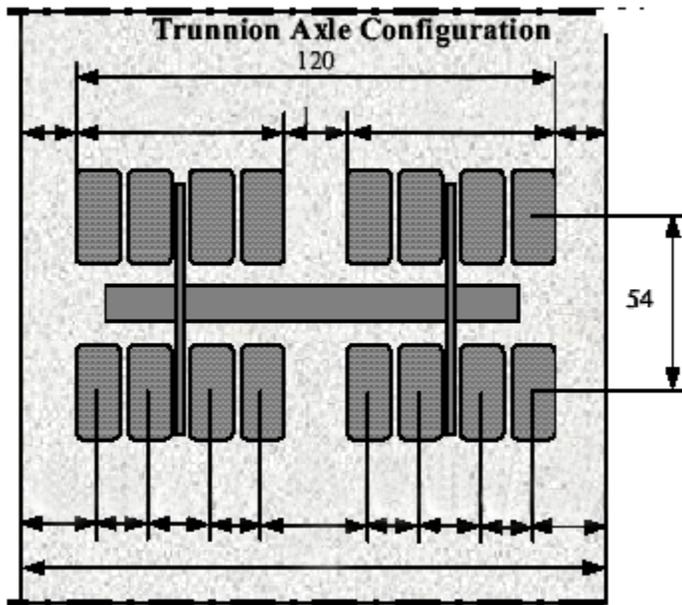
18 (B) there are a total of 16 tires for the

19 trunnion configuration; and

20 (C) the trunnion axle, as shown in the following
21 diagram, is 10 feet in width.

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23 Figure: 43 TAC §28.115(b)(6)(C)



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3 (c) Tire load rating. A permit issued under this
4 subchapter does not authorize the vehicle to exceed
5 manufacturer's tire load rating.

6 (d) Permits for vehicles exceeding permit weight limits.

7 For a vehicle exceeding weight limits provided in this section,
8 a person must apply directly to the Texas Department of Motor
9 Vehicles for an oversize or overweight permit in accordance with
10 Transportation Code, Chapter 623.

11

12 §28.116. Movement Requirements and Restrictions.

13 (a) Carrying of permit. The original permit issued by the
14 Authority must be carried in the permitted vehicle.

1 (b) Prohibition on movement with void permit. A permittee
2 is prohibited from transporting an oversize or overweight load
3 with a void permit. A permit is void if the applicant gives
4 false or incorrect information. A permit becomes void when the
5 permittee fails to comply with the restrictions or conditions
6 stated in the permit or when the permittee changes or alters the
7 information in the permit.

8 (c) Weather conditions or road work. Movement of a
9 permitted vehicle is prohibited when:

10 (1) visibility is reduced to less than 2/10 of one
11 mile;

12 (2) the road surface is hazardous due to weather
13 conditions, such as rain, ice, sleet, or snow; or

14 (3) highway maintenance or construction work is being
15 performed.

16 (d) Daylight and night movement restrictions. An oversize
17 permitted vehicle may be moved only during daylight hours. A
18 permitted vehicle that is overweight but not oversize may be
19 moved at any time.

20 (e) Weight ticket requirement. Any vehicle issued a permit
21 by the Authority must be weighed on scales that are capable of
22 determining gross vehicle weights and individual axle loads and
23 are certified by the Texas Department of Agriculture or accepted

1 by the United Mexican States.

2 (f) Speed. The maximum speed for a permitted vehicle is

3 set by Transportation Code, §623.217.

4

5 §28.117. Records. The Authority shall maintain records that

6 evidence compliance with this subchapter. Those records are

7 subject to audit by department personnel.