

ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 1. ADMINISTRATION

PART 4. OFFICE OF THE SECRETARY OF STATE

CHAPTER 81. ELECTIONS

SUBCHAPTER A. VOTER REGISTRATION

1 TAC §81.6

The Office of the Secretary of State, Elections Division, repeals 1 TAC §81.6, concerning notification to high school deputy registrars. The repeal is adopted without changes to the proposal as published in the October 16, 2015, issue of the *Texas Register* (40 TexReg 7169).

Section 81.6 was obsolete because it was superseded by 1 TAC §81.7 and Section 4 of HB 127 (74th Regular Session).

The Secretary of State did not receive any comments on the proposed repeal.

The repeal is adopted under the Texas Election Code, §31.003, which provides the Office of the Secretary of State with the authority to obtain and maintain uniformity in the application, interpretation, and operation of provisions under the Texas Election Code and other election laws. The repeal is also adopted under the Texas Election Code, §13.046(d) and (h), which permit the Office of the Texas Secretary of State to prescribe rules and procedures to implement §13.046 of the Texas Election Code.

No other code or statute is affected by the adoption.

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

Filed with the Office of the Secretary of State on November 30, 2015.

TRD-201505208

Lindsey Wolf

General Counsel

Office of the Secretary of State

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For further information, please call: (512) 463-5650



PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 355. REIMBURSEMENT RATES

SUBCHAPTER M. MISCELLANEOUS PROGRAMS

DIVISION 6. PRESCRIBED PEDIATRIC EXTENDED CARE CENTERS

1 TAC §355.9080

The Texas Health and Human Services Commission (HHSC) adopts new §355.9080, concerning Reimbursement Methodology for Prescribed Pediatric Extended Care Centers, without changes to the proposed text as published in the September 11, 2015, issue of the *Texas Register* (40 TexReg 6004). The rule will not be republished.

BACKGROUND AND JUSTIFICATION

HHSC, under its authority and responsibility to administer and implement rates, is adopting new §355.9080 to establish a reimbursement methodology for Prescribed Pediatric Extended Care Centers (PPECCs). A PPECC provides non-residential, facility-based care as an alternative to private-duty nursing (PDN) for individuals under the age of 21 with complex medical needs. Senate Bill 492, 83rd Legislature, Regular Session, 2013, enacted Health and Safety Code Chapter 248A to establish PPECCs in Texas and provide for their licensing; enacted Texas Human Resources Code §32.024(jj) to require HHSC to establish PPECCs as a separate Medicaid provider type; and, in an uncodified portion, limited the HHSC-established reimbursement rate to no more than 70 percent of the average hourly PDN rate. See Act of May 22, 2013, 83d Leg., R.S., ch. 1168, §§1, 6, 8(c), 2013 Tex. Gen. Laws 2898.

COMMENTS

The 30-day comment period ended October 12, 2015. During this period, HHSC did not receive any comments regarding the proposed new rule.

STATUTORY AUTHORITY

This new rule is adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021; Texas Government Code §531.021(a), which provides HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Human Resources Code §32.024(jj), which requires HHSC to allow PPECCs to enroll as Medicaid providers.

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

Filed with the Office of the Secretary of State on November 23, 2015.

TRD-201505124
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Effective date: January 1, 2016
Proposal publication date: September 11, 2015
For further information, please call: (512) 424-6900



CHAPTER 379. FAMILY VIOLENCE PROGRAM

The Texas Health and Human Service Commission (HHSC) adopts amendments to §379.610, concerning 24-Hour-a-Day Shelter Services to Family Violence Victims less than 18 Years Old; §379.611, concerning Nonresidential Services for a Family Violence Victim who is Less than 18 Years Old; §379.1308, concerning Nonresidential Services for a Family Violence Victim Who is Less than 18 Years Old; and §379.2009, concerning Services for a Family Violence Victim Who is Less than 18 Years Old, without changes to the proposed text as published in the July 3, 2015, issue of the *Texas Register* (40 TexReg 4277). The rules will not be republished.

Background and Justification

The amended rules, §§379.610, 379.611, 379.1308 and 379.2009, clarify the circumstances under which shelter centers, special non-residential projects, and nonresidential centers may provide services to persons under the age of 18, including unaccompanied minors. Under Texas Family Code §32.201 and §32.202 an "emergency shelter facility" may provide emergency shelter or care to a minor and the minor's child or children, if any. With S.B. 353, 83rd Legislature, Regular Session, 2013, the Legislature clarified that a shelter center participating in the Family Violence Program could provide emergency shelter or care to a minor, even if the shelter center does not have a license to operate a childcare facility. In response, the Department of Family and Protective Services (DFPS) amended Texas Administrative Code, Title 40, Part 19, Chapter 745, Subchapter C, Division 2, §745.129 (relating to Exemptions from Regulations) to reflect these changes effective March 1, 2014. The HHSC Family Violence Program is making these rule changes to align with the DFPS rules and to clarify requirements for Family Violence Program contractors.

Comments

The 30-day comment period ended August 2, 2015. During this period, HHSC did not receive any comments regarding the amended rules.

SUBCHAPTER B. SHELTER CENTERS DIVISION 6. PROGRAM ADMINISTRATION

1 TAC §379.610, §379.611

Statutory Authority

The amendments are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; and Texas Human Resources Code §51.010, which allows HHSC to adopt rules to implement a program to promote development of and access to locally based and supported nonprofit services for victims of family violence throughout the state.

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

Filed with the Office of the Secretary of State on November 23, 2015.

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Karen Ray
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Texas Health and Human Service Commission
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For further information, please call: (512) 424-6900



SUBCHAPTER C. SPECIAL NONRESIDENTIAL PROJECTS DIVISION 6. PROGRAM ADMINISTRATION

1 TAC §379.1308

The amendments are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; and Texas Human Resources Code §51.010, which allows HHSC to adopt rules to implement a program to promote development of and access to locally based and supported nonprofit services for victims of family violence throughout the state.

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) 424-6900



SUBCHAPTER D. NONRESIDENTIAL CENTERS DIVISION 6. PROGRAM ADMINISTRATION

1 TAC §379.2009

The amendments are adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; and Texas Human Resources Code §51.010, which allows HHSC to adopt rules to implement a program to promote development of and access to locally based and supported nonprofit services for victims of family violence throughout the state.

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) 424-6900



TITLE 22. EXAMINING BOARDS

PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 101. DENTAL LICENSURE

22 TAC §101.6

The Texas State Board of Dental Examiners adopts the repeal of §101.6, relating to dental licensure for military service members, military veterans, and military spouses. The repeal of this rule is adopted without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5666).

The repeal of §101.6 is necessary because the Board reorganized the structure of the rule and determined that it was best to adopt new §101.6.

The Board received no written comments regarding the repeal.

The repeal of §101.6 is adopted under Texas Occupations Code §254.001(a). The Board interprets §254.001(a) to give the Board authority to adopt rules necessary to perform its duties and ensure compliance with state law relating to the practice of dentistry to protect the public health and safety.

No other statutes, articles, or codes are affected by the repeal of this rule.

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

Filed with the Office of the Secretary of State on November 24, 2015.

TRD-201505159

Nycia Deal

General Counsel

State Board of Dental Examiners

Effective date: December 14, 2015

Proposal publication date: September 4, 2015

For further information, please call: (512) 475-0977



22 TAC §101.6

The Texas State Board of Dental Examiners adopts new §101.6, relating to dental licensing for military service members, military veterans, and military spouses. This rule is adopted without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5667).

New §101.6 includes requirements from Senate Bills 1307 and 807 (84th Leg.) related to occupational licensing for military service members, military veterans, and military spouses. Instead of proposing amendments to former rule §101.6, Board Staff reorganized the structure of the rule and determined that it was best to propose §101.6 as a new rule.

The Board received no written comments regarding this new rule.

New §101.6 is adopted under Texas Occupations Code §254.001(a). The Board interprets §254.001(a) to give the Board authority to adopt rules necessary to perform its duties and ensure compliance with state law relating to the practice of dentistry to protect the public health and safety.

No other statutes, articles, or codes are affected by the rule.

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

Filed with the Office of the Secretary of State on November 24, 2015.

TRD-201505158

Nycia Deal

General Counsel

State Board of Dental Examiners

Effective date: December 14, 2015

Proposal publication date: September 4, 2015

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CHAPTER 102. FEES

22 TAC §102.1

The Texas State Board of Dental Examiners adopts amendments to §102.1, relating to the fee schedule. This rule is adopted without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5668).

Amendments to §102.1 were adopted to conform the fee schedule to existing statutory fee requirements and reflect fee reductions that the agency was able to absorb.

The Board received no written comments regarding this amendment.

Amendments to §102.1 are adopted under Texas Occupations Code §254.001(a). The Board interprets §254.001(a) to give the Board authority to adopt rules necessary to perform its duties and ensure compliance with state law relating to the practice of dentistry to protect the public health and safety.

No other statutes, articles, or codes are affected by the rule.

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

Filed with the Office of the Secretary of State on November 24, 2015.

TRD-201505164

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For further information, please call: (512) 475-0977



CHAPTER 114. EXTENSION OF DUTIES OF AUXILIARY PERSONNEL--DENTAL ASSISTANTS

22 TAC §114.5

The Texas State Board of Dental Examiners adopts amendments to §114.5, relating to the coronal polishing certificates issued to dental assistants. This rule is adopted without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5668).

Amendments to §114.5 provide that applicants may complete coronal polishing education at dental schools and dental hygiene schools accredited by CODA in addition to dental assisting programs, as required by House Bill 2849 (84th Leg.).

The Board received no written comments regarding this amendment.

Amendments to §114.5 are adopted under Texas Occupations Code §254.001(a). The Board interprets §254.001(a) to give the Board authority to adopt rules necessary to perform its duties and ensure compliance with state law relating to the practice of dentistry to protect the public health and safety.

No other statutes, articles, or codes are affected by the rule.

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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PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS

CHAPTER 131. ORGANIZATION AND ADMINISTRATION

The Texas Board of Professional Engineers (Board) adopts new §131.37, concerning State Contract Guidelines, and an amendment to §131.85, concerning Board Rules Procedures, without changes to the proposed text as published in the September 18,

2015, issue of the *Texas Register* (40 TexReg 6280). The rules will not be republished.

Adopted new §131.37 is required to implement changes to Chapter 2261 of the Texas Government Code made by SB 20 in the 84th Texas Legislative session related to managing contracts with state agencies.

The adopted amendment to §131.85 is required to implement changes to Chapter 2001 of the Texas Government Code made by HB 763 in the 84th Texas Legislative session related to rule-making procedures for state agencies. The change clarifies the procedure for accepting petitions for rulemaking.

The Board received no comments regarding adoption of the rules.

SUBCHAPTER B. ORGANIZATION OF THE BOARD STAFF

22 TAC §131.37

The new rule is adopted pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

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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TRD-201505173

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Effective date: December 14, 2015

Proposal publication date: September 18, 2015
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SUBCHAPTER F. ADMINISTRATION

22 TAC §131.85

The amendment is adopted pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and by-laws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

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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Proposal publication date: September 18, 2015
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CHAPTER 133. LICENSING

The Texas Board of Professional Engineers (Board) adopts amendments to §133.21, concerning Application for Standard License; §133.23, concerning Applications from Former Standard License Holders; §133.25, concerning Application from Engineering Educators; §133.81, concerning Receipt and Processing of Applications by the Board; §133.87, concerning Final Action on Applications; and §133.97, concerning Issuance of License, without changes to the proposed text as published in the September 18, 2015, issue of the *Texas Register* (40 TexReg 6282). The rules will not be republished.

The adopted amendments to §§133.21, 133.23, 133.25, and 133.81 are required to implement changes to Chapter 55 of the Texas Government Code made by SB 807 and SB 1307 in the 84th Texas Legislative session related to licensing and renewal requirements for active duty military, qualifying military spouses and military veterans.

The adopted amendments to §§133.81, 133.87, and 133.97 are required to implement changes to the Texas Engineering Practice Act made by HB 7 in the 84th Texas Legislative session related to the Professional Fee. The change repeals the \$200 Professional Fee which has been collected at the time of issuance and renewal of a license.

The Board received no comments regarding adoption of §§133.21, 133.23, 133.25 and 133.81. The Board received two comments in support of the Professional Fee Repeal changes in §§133.81, 133.97 and 133.97.

SUBCHAPTER C. PROFESSIONAL ENGINEER LICENSE APPLICATION REQUIREMENTS

22 TAC §§133.21, 133.23, 133.25

The amendments are adopted pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

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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SUBCHAPTER H. REVIEW PROCESS OF APPLICATIONS AND LICENSE ISSUANCE

22 TAC §§133.81, 133.87, 133.97

The amendments are adopted pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

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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CHAPTER 137. COMPLIANCE AND PROFESSIONALISM

SUBCHAPTER A. INDIVIDUAL AND ENGINEER COMPLIANCE

22 TAC §§137.7, 137.9, 137.11, 137.13, 137.19

The Texas Board of Professional Engineers (Board) adopts amendments to §137.7, concerning License Expiration and Renewal; §137.9, concerning Renewal for Expired License; §137.11, concerning Expiration and Licensed in Another Jurisdiction; §137.13, concerning Inactive Status; and §137.19, concerning Engineers Qualified to be Texas Windstorm Inspectors, without changes to the proposed text as published in the September 18, 2015, issue of the *Texas Register* (40 TexReg 6284). The rules will not be republished.

The adopted amendment to §137.9 is required to implement changes to Chapter 55 of the Texas Government Code made by SB 807 and SB 1307 in the 84th Texas Legislative session related to licensing and renewal requirements for active duty military, qualifying military spouses and military veterans.

The adopted amendments to §§137.7, 137.9, 137.11 and 137.13 are required to implement changes to the Texas Engineering Practice Act made by HB 7 in the 84th Texas Legislative session related to the Professional Fee. The change repeals the

\$200 Professional Fee which has been collected at the time of issuance and renewal of a license.

The adopted amendment to §137.19 is required to implement changes to the Texas Engineering Practice Act made by HB 2439 in the 84th Texas Legislative session related to the Texas Windstorm Insurance Program implemented by the Texas Department of Insurance. The change repeals Subchapter N of the Act, but the implementation date of the program sunset was extended until the end of 2016.

The Board received no comments regarding §137.9 and §137.19. The Board received two comments in support of the Professional Fee Repeal changes in §§137.7, 137.9, 137.11 and 137.13.

The amendments are adopted pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

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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Lance Kinney, P.E.
Executive Director
Texas Board of Professional Engineers
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PART 8. TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

CHAPTER 153. RULES RELATING TO PROVISIONS OF THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT

22 TAC §153.1

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.1, Definitions, without changes to the proposed text as published in the September 25, 2015, issue of the *Texas Register* (40 TexReg 6494). The amendments clarify the definition of "Appraiser Trainee" and add definitions of "Certified General Appraiser," "Certified Residential Appraiser," "Licensed Residential Appraiser," "Supervisory Appraiser," and "Trade Association" to align the rule with statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature.

The reasoned justification for the amendments is to provide clarity for license holders and to align the rule with statutory changes adopted by the 84th Legislature.

No comments were received on the amendments as proposed.

The amendments are adopted under Texas Occupations Code §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB.

The statute affected by these amendments is Chapter 1103, Texas Occupations Code. No other statute, code or article is affected by the amendments.

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

Filed with the Office of the Secretary of State on November 24, 2015.

TRD-201505130
Kristen Worman
General Counsel
Texas Appraiser Licensing and Certification Board
Effective date: January 1, 2016
Proposal publication date: September 25, 2015
For further information, please call: (512) 936-3652



22 TAC §153.5

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.5, Fees, without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5669). The amendments change terminology in the rule to be consistent with statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature and add a provision for the Board to collect fees for providing certified copies.

The reasoned justification for the amendments is to provide clarity for license holders, allow for the Board to recover its operational costs, and align this rule with statutory changes adopted by the 84th Legislature.

No comments were received on the amendments as proposed.

The amendments are adopted under Texas Occupations Code §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB.

The statute affected by these amendments is Chapter 1103, Texas Occupations Code. No other statute, code or article is affected by the amendments.

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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TRD-201505131

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Effective date: January 1, 2016
Proposal publication date: September 4, 2015
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22 TAC §153.9

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.9, Applications, without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5670). The amendments implement changes for processing license applications from military members, veterans, or spouses of military members and provide for a two-year waiting period before reapplying after an application is denied.

The reasoned justification for the amendments is to provide clarity for license holders and to align the rule with statutory changes to Chapters 55 and 1103, Texas Occupations Code, adopted by the 84th Legislature.

No comments were received on the amendments as proposed.

The amendments are adopted under Texas Occupations Code §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB.

The statute affected by these amendments is Chapter 1103, Texas Occupations Code. No other statute, code or article is affected by the amendments.

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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TRD-201505132
Kristen Worman
General Counsel
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Effective date: January 1, 2016
Proposal publication date: September 4, 2015
For further information, please call: (512) 936-3652



22 TAC §153.16

The Texas Appraiser Licensing and Certification Board (TALCB) adopts new 22 TAC §153.16, License Reinstatement, with changes as to the proposed rule text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5672). This new rule allows persons who previously held a license issued by the Board to reinstate an expired license as authorized by the Appraiser Qualifications Board (AQB).

No comments were received on the new rule as proposed. However, staff recommends changes to subsections (d)(1)(A) and (d)(2)(B)(i) as published, for consistency and to provide better clarity for license holders.

The reasoned justification for the new rule is to align the Board's rules with qualification criteria established by the AQB and to encourage and provide previous license holders with a mechanism to re-enter the appraisal profession.

The revision to the rule as adopted does not change the nature or scope so much that the rule as adopted could be deemed a different rule. The rule as adopted does not affect individuals other than those contemplated by the rule as proposed. The rule as adopted does not impose more onerous requirements than the proposed rule.

The new rule is adopted under Texas Occupations Code §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB.

The statute affected by the new rule is Chapter 1103, Texas Occupations Code. No other statute, code or article is affected by the new rule.

§153.16. License Reinstatement.

(a) This section applies only to a person who:

(1) previously held an appraiser license issued by the Board that has expired; and

(2) seeks to obtain the same level of appraiser license previously held by the person before its expiration.

(b) A person described in subsection (a) may apply to reinstate the person's former license by:

(1) submitting an application for reinstatement on a form approved by the Board;

(2) paying the applicable fee;

(3) satisfying the Board as to the person's honesty, trustworthiness and integrity; and

(4) satisfying the experience requirements in this section.

(c) Applicants for reinstatement under this section must demonstrate completion of 14 hours of appraiser continuing education for each year since the last renewal of the person's previous license.

(d) Applicants for reinstatement must demonstrate that their appraisal experience complies with USPAP as follows:

(1) Persons who have work files/license expired less than 5 years. A person described in subsection (a) who has appraisal work files and whose previous license has been expired less than five years may apply to reinstate the person's previous license by submitting an experience log as follows:

(A) For reinstatement as a licensed residential appraiser, a minimum of 10 residential appraisal reports representing at least 200 hours of residential real estate appraisal experience.

(B) For reinstatement as a certified residential real estate appraiser, a minimum of 10 residential appraisal reports representing at least 250 hours of residential real estate appraisal experience.

(C) For reinstatement as a certified general appraiser, a minimum of 10 non-residential appraisal reports representing at least 300 hours of non-residential real estate appraisal experience.

(2) Persons who do not have work files/license expired more than 5 years.

(A) A person described in subsection (a) who does not have appraisal work files or whose previous license has been expired

for more than five years may apply for a license as an appraiser trainee for the purpose of acquiring the appraisal experience required under this subsection.

(B) An appraiser trainee licensed under this section may apply for reinstatement at the same level of appraiser license that the applicant previously held, after the applicant completes the required number of appraisal reports or hours of real estate appraisal experience as follows:

(i) For reinstatement as a licensed residential appraiser, the applicant must complete a minimum of 10 residential appraisal reports or 200 hours of residential real estate appraisal experience, whichever is more.

(ii) For reinstatement as a certified residential appraiser, the applicant must complete a minimum of 10 residential appraisal reports or 250 hours of residential real estate appraisal experience, whichever is more.

(iii) For reinstatement as a certified general appraiser, the applicant must complete a minimum of 10 non-residential appraisal reports or 300 hours of non-residential real estate appraisal experience, whichever is more.

(C) Upon completion of the required number of appraisal reports or hours of real estate appraisal experience, the applicant must submit an experience log.

(e) Consistent with §153.15, the Board will evaluate each applicant's real estate appraisal experience for compliance with USPAP based on the submitted experience log.

(f) For those persons described in subsection (a) the Board may waive the following requirements:

- (1) Proof of qualifying education;
- (2) College education or degree requirement; and
- (3) Examination.

(g) Consistent with this chapter, upon review of the applicant's real estate appraisal experience, the Board may:

- (1) Reinstatement the applicant's previous appraiser license;
- (2) Reinstatement the applicant's previous appraiser license, contingent upon completion of additional education, experience or mentorship; or
- (3) Deny the application.

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

Filed with the Office of the Secretary of State on November 24, 2015.

TRD-201505134
Kristen Worman
General Counsel
Texas Appraiser Licensing and Certification Board
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For further information, please call: (512) 936-3652



22 TAC §153.17

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.17, Renewal or Extension of License, without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5673).

The amendments change terminology in the rule and extend the license renewal period for persons serving on active duty in the military to be consistent with statutory changes to Chapters 55 and 1103, Texas Occupations Code, adopted by the 84th Legislature.

The reasoned justification for the amendments is to provide additional time for persons serving on active duty in the military to renew their appraiser license and to align the rule with statutory changes to Chapters 55 and 1103, Texas Occupations Code, adopted by the 84th Legislature.

No comments were received on the amendments as proposed.

The amendments are adopted under Texas Occupations Code §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB.

The statute affected by these amendments is Chapter 1103, Texas Occupations Code. No other statute, code or article is affected by the amendments.

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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22 TAC §153.20

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.20, Guidelines for Revocation, Suspension, Denial of License; Probationary License, with changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5674). The amendments implement changes regarding compliance with an agreed order of the Board and the statute of limitations for investigating a complaint to align the rule with statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature.

No comments were received on the amendments as proposed. However, the subsection numbering for this section has been changed to correct an error.

The reasoned justification for the amendments is to provide clarity to license holders and to align the rule with statutory changes adopted by the 84th Legislature.

The revision to the rule as adopted does not change the nature or scope so much that the rule as adopted could be deemed a different rule. The rule as adopted does not affect individuals other than those contemplated by the rule as proposed. The rule as adopted does not impose more onerous requirements than the proposed rule.

The amendments are adopted under Texas Occupations Code §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB.

The statute affected by these amendments is Chapter 1103, Texas Occupations Code. No other statute, code or article is affected by the amendments.

§153.20. Guidelines for Revocation, Suspension, Denial of License; Probationary License.

(a) The Board may suspend or revoke a license or deny issuing a license to an applicant at any time the Board determines that the applicant or license holder:

- (1) disregards or violates a provision of the Act or the Board rules;
- (2) is convicted of a felony;
- (3) fails to notify the Board not later than the 30th day after the date of the final conviction if the person, in a court of this or another state or in a federal court, has been convicted of or entered a plea of guilty or nolo contendere to a felony or a criminal offense involving fraud or moral turpitude;
- (4) fails to notify the Board not later than the 30th day after the date of incarceration if the person, in this or another state, has been incarcerated for a criminal offense involving fraud or moral turpitude;
- (5) fails to notify the Board not later than the 30th day after the date disciplinary action becomes final against the person with regard to any occupational license the person holds in Texas or any other jurisdiction;
- (6) fails to comply with the USPAP edition in effect at the time of the appraiser service;
- (7) acts or holds himself or herself or any other person out as a person licensed under the Act when not so licensed;
- (8) accepts payment for appraiser services but fails to deliver the agreed service in the agreed upon manner;
- (9) refuses to refund payment received for appraiser services when he or she has failed to deliver the appraiser service in the agreed upon manner;
- (10) accepts payment for services contingent upon a minimum, maximum, or pre-agreed value estimate except when such action would not interfere with the appraiser's obligation to provide an independent and impartial opinion of value and full disclosure of the contingency is made in writing to the client;
- (11) offers to perform appraiser services or agrees to perform such services when employment to perform such services is contingent upon a minimum, maximum, or pre-agreed value estimate except when such action would not interfere with the appraiser's obligation to provide an independent and impartial opinion of value and full disclosure of the contingency is made in writing to the client;
- (12) makes a material misrepresentation or omission of material fact;

(13) has had a license as an appraiser revoked, suspended, or otherwise acted against by any other jurisdiction for an act which is a crime under Texas law;

(14) procures, or attempts to procure, a license by making false, misleading, or fraudulent representation;

(15) fails to actively, personally, and diligently supervise an appraiser trainee or any person not licensed under the Act who assists the license holder in performing real estate appraiser services;

(16) has had a final civil judgment entered against him or her on any one of the following grounds:

(A) fraud;

(B) intentional or knowing misrepresentation;

(C) grossly negligent misrepresentation in the performance of appraiser services;

(17) fails to make good on a payment issued to the Board within thirty days after the Board has mailed a request for payment by certified mail to the license holder's last known business address as reflected by the Board's records;

(18) knowingly or willfully engages in false or misleading conduct or advertising with respect to client solicitation;

(19) acts or holds himself or any other person out as a person licensed under this or another state's Act when not so licensed;

(20) misuses or misrepresents the type of classification or category of license number;

(21) engages in any other act relating to the business of appraising that the Board, in its discretion, believes warrants a suspension or revocation;

(22) uses any title, designation, initial or other insignia or identification that would mislead the public as to that person's credentials, qualifications, competency, or ability to perform licensed appraisal services;

(23) fails to comply with an agreed order or a final order of the Board;

(24) fails to answer all inquiries concerning matters under the jurisdiction of the Board within 20 days of notice to said individual's address of record, or within the time period allowed if granted a written extension by the Board; or

(25) after conducting reasonable due diligence, knowingly accepts an assignment from an appraisal management company that is not exempt from registration under the Act which:

(A) has not registered with the Board; or

(B) is registered with the Board but has not placed the appraiser on its panel of appraisers maintained with the Board; or

(26) fails to approve, sign, and deliver to their appraiser trainee the appraisal experience log and affidavit required by §153.15(f)(1) and §153.17(c)(1) of this title for all experience actually and lawfully acquired by the trainee while under the appraiser's sponsorship.

(b) The Board has discretion in determining the appropriate penalty for any violation under subsection (a) of this section.

(c) The Board may probate a penalty or sanction, and may impose conditions of the probation, including, but not limited to:

(1) the type and scope of appraisals or appraisal practice;

(2) the number of appraiser trainees or authority to sponsor appraiser trainees;

(3) requirements for additional education;

(4) monetary administrative penalties; and

(5) requirements for reporting real property appraisal activity to the Board.

(d) A person applying for reinstatement after revocation or surrender of a license must comply with all requirements that would apply if the license had instead expired.

(e) The provisions of this section do not relieve a person from civil liability or from criminal prosecution under the Act or other laws of this State.

(f) The Board may not investigate a complaint submitted to the Board more than four years after the date on which the alleged violation occurred.

(g) Except as provided by Texas Government Code §402.031(b) and Texas Penal Code §32.32(d), there shall be no undercover or covert investigations conducted by authority of the Act.

(h) A license may be revoked or suspended by the Attorney General or other court of competent jurisdiction for failure to pay child support under the provisions of Chapter 232 of the Texas Family Code.

(i) If the Board determines that issuance of a probationary license is appropriate, the order entered by the Board with regard to the application must set forth the terms and conditions for the probationary license. Terms and conditions for a probationary license may include any of the following:

(1) that the probationary license holder comply with the Act and with the rules of the Texas Appraiser Licensing and Certification Board;

(2) that the probationary license holder fully cooperate with the enforcement division of the Board in the investigation of any complaint filed against the license holder or any other complaint in which the license holder may have relevant information;

(3) that the probationary license holder attend a prescribed number of classroom hours in specific areas of study during the probationary period;

(4) that the probationary license holder limit appraisal practice as prescribed in the order;

(5) that the probationary license holder work under the direct supervision of a certified general or certified residential appraiser who will review and sign each appraisal report completed;

(6) that the probationary license holder report regularly to the Board on any matter which is the basis of the probationary license; or

(7) that the probationary license holder comply with any other terms and conditions contained in the order which have been found to be reasonable and appropriate by the Board after due consideration of the circumstances involved in the particular application.

(j) Unless the order granting a probationary license specifies otherwise, a probationary license holder may renew the license after the probationary period by filing a renewal application, satisfying applicable renewal requirements, and paying the prescribed renewal fee.

(k) If a probationary license expires prior to the completion of a probationary term and the probationary license holder files a late

renewal application, any remaining probationary period shall be reinstated effective as of the day following the renewal of the probationary license.

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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22 TAC §153.21

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.21, Appraiser Trainees and Supervisory Appraisers, with changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5676). The amendments implement changes to align the rule with statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature.

No comments were received on the amendments as proposed. However, the paragraph numbering for this section has been changed to provide greater clarity for license holders.

The reasoned justification for the amendments is to provide clarity to license holders and to align the rule with statutory changes adopted by the 84th Legislature.

The revision to the rule as adopted does not change the nature or scope so much that the rule as adopted could be deemed a different rule. The rule as adopted does not affect individuals other than those contemplated by the rule as proposed. The rule as adopted does not impose more onerous requirements than the proposed rule.

The amendments are adopted under Texas Occupations Code §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB.

The statute affected by these amendments is Chapter 1103, Texas Occupations Code. No other statute, code or article is affected by the amendments.

§153.21. *Appraiser Trainees and Supervisory Appraisers.*

(a) Supervision of appraiser trainees required.

(1) An appraiser trainee may perform appraisals or appraiser services only under the active, personal and diligent direction and supervision of a supervisory appraiser.

(2) An appraiser trainee may be supervised by more than one supervisory appraiser.

(3) Supervisory appraisers may supervise no more than three appraiser trainees at one time.

(4) A supervisory appraiser may be added during the term of an appraiser trainee's license if:

(A) The supervisory appraiser and appraiser trainee have provided proof to the Board of completion of an approved Appraiser Trainee/Supervisory Appraiser course;

(B) an application to supervise has been received and approved by the Board; and

(C) the applicable fee has been paid.

(5) A licensed appraiser trainee who signs an appraisal report must include his or her license number and the word "Trainee" as part of the appraiser trainee's signature in the report.

(b) Eligibility requirements for appraiser trainee supervision.

(1) To be eligible to supervise an appraiser trainee, a certified appraiser must:

(A) be in good standing and not subject to any disciplinary action within the last three years that affected the certified appraiser's eligibility to engage in appraisal practice;

(B) complete an approved Appraiser Trainee/Supervisory Appraiser course; and

(C) submit proof of course completion to the Board.

(2) Before supervising an appraiser trainee, the supervisory appraiser must notify the appraiser trainee in writing of any disciplinary action taken against the supervisory appraiser within the last three years that did not affect the supervisory appraiser's eligibility to engage in appraisal practice.

(3) An application to supervise must be received and approved by the Board before supervision begins.

(c) Maintaining eligibility to supervise appraiser trainees.

(1) A supervisory appraiser who wishes to continue to supervise appraiser trainees upon renewal of his/her license must complete an approved Appraiser Trainee/Supervisory Appraiser course within four years before the expiration date of the supervisory appraiser's current license and provide proof of completion to the Board.

(2) If a supervisory appraiser has not provided proof of course completion at the time of renewal, but has met all other requirements for renewing the license the supervisory appraiser will no longer be eligible to supervise appraiser trainees; and the Board will take the following actions:

(A) the supervisory appraiser's license will be renewed on active status; and

(B) the license of any appraiser trainees supervised solely by that supervisory appraiser will be placed on inactive status.

(3) A certified appraiser may restore eligibility to supervise appraiser trainees by:

(A) completing the course required by this section; and

(B) submitting proof of course completion to the Board.

(4) The supervisory appraiser's supervision of previously supervised appraiser trainees may be reinstated by:

(A) submitting the required form to the Board; and

(B) payment of any applicable fees.

(d) Maintaining eligibility to act as an appraiser trainee.

(1) An appraiser trainee must complete an approved Appraiser Trainee/Supervisory Appraiser course within four years before the expiration date of the appraiser trainee's current license and provide proof of completion to the Board.

(2) If an appraiser trainee has not provided proof of course completion at the time of renewal, but has met all other requirements for renewing the license:

(A) the Board will renew the appraiser trainee's license on inactive status;

(B) the appraiser trainee will no longer be eligible to perform appraisals or appraisal services; and

(C) the appraiser trainee's relationship with any supervisory appraiser will be terminated.

(3) An appraiser trainee may return the appraiser trainee's license to active status by:

(A) completing the course required by this section;

(B) submitting proof of course completion to the Board;

(C) submitting an application to return to active status, including an application to add a supervisory appraiser; and

(D) paying any applicable fees.

(e) Duties of the supervisory appraiser.

(1) Supervisory appraisers are responsible to the public and to the Board for the conduct of the appraiser trainee under the Act.

(2) The supervisory appraiser assumes all the duties, responsibilities, and obligations of a supervisory appraiser as specified in these rules and must diligently supervise the appraiser trainee. Diligent supervision includes, but is not limited to, the following:

(A) direct supervision and training as necessary;

(B) ongoing training and supervision as necessary after the supervisory appraiser determines that the appraiser trainee no longer requires direct supervision;

(C) communication with and accessibility to the appraiser trainee; and

(D) review and quality control of the appraiser trainee's work.

(3) Supervisory appraisers must approve and sign the appraiser trainee's appraisal log and experience affidavit at least quarterly and provide appraiser trainees with access to any appraisals and work files completed under the supervisory appraiser.

(4) After notice and hearing, the Board may reprimand a supervisory appraiser or may suspend or revoke a supervisory appraiser's license based on conduct by the appraiser trainee constituting a violation of the Act or Board rules.

(f) Termination of supervision.

(1) Supervision may be terminated by the supervisory appraiser or the appraiser trainee.

(2) If supervision is terminated, the terminating party must:

(A) immediately notify the Board on a form approved by the Board; and

(B) notify the non-terminating party in writing no later than the 10th day after the date of termination; and

(C) pay any applicable fees no later than the 10th day after the date of termination.

(3) If an appraiser trainee is no longer under the supervision of a supervisory appraiser:

(A) the appraiser trainee may no longer perform the duties of an appraiser trainee; and

(B) is not eligible to perform those duties until:

(i) an application to supervise the trainee has been filed;

(ii) any applicable fees have been paid; and

(iii) the Board has approved the application.

(g) Course approval.

(1) To obtain Board approval of an Appraiser Trainee/Supervisory Appraiser course, a course provider must:

(A) submit form ATS-0, Appraiser Trainee/Supervisory Appraiser Course Approval, adopted herein by reference; and

(B) satisfy the Board that all required content set out in form ATS-0 is adequately covered.

(2) Approval of an Appraiser Trainee/Supervisory Appraiser course shall expire two years from the date of Board approval.

(3) An Appraiser Trainee/Supervisory Appraiser course may be delivered through:

(A) classroom delivery method; or

(B) distance education delivery method. The delivery mechanism for distance education courses offered by a non-academic provider must be approved by an AQB-approved organization providing approval of course design and delivery.

(h) ACE credit.

(1) Supervisory appraisers who complete the Appraiser Trainee/Supervisory Appraiser course may receive ACE credit for the course.

(2) Appraiser Trainees may not receive qualifying or ACE credit for completing the Appraiser Trainee/Supervisory Appraiser course.

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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CHAPTER 157. RULES RELATING TO PRACTICE AND PROCEDURE

SUBCHAPTER A. GENERAL PROVISIONS

22 TAC §157.7, §157.8

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §157.7, Denial of a License, and §157.8, Adverse Action Against a License Holder or Registrant, without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5678). The amendments reorganize these rules for better understanding and clarity.

The reasoned justification for the amendments is to provide clarity for license holders.

No comments were received on the amendments as proposed.

The amendments are adopted under Texas Occupations Code, §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1104.051, which authorizes TALCB to adopt rules necessary to administer Chapter 1104.

The statutes affected by these amendments are Texas Occupations Code, Chapters 1103 and 1104. No other statute, code or article is affected by the amendments.

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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SUBCHAPTER B. CONTESTED CASE HEARINGS

22 TAC §157.9, §157.12

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §157.9, Notice of Hearings, and §157.12, Failure to Attend Hearing; Default Judgment, without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5679). The amendments implement statutory changes to Chapter 2001, Texas Government Code, and Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature.

The reasoned justification for the amendments is to align the rules with statutory changes adopted by the 84th Legislature.

No comments were received on the amendments as proposed.

The amendments are adopted under Texas Occupations Code, §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1104.051, which authorizes TALCB to adopt rules necessary to administer Chapter 1104.

The statutes affected by these amendments are Texas Occupations Code, Chapters 1103 and 1104. No other statute, code or article is affected by the amendments.

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SUBCHAPTER C. POST HEARING

22 TAC §§157.17, 157.18, 157.20

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §157.17, Final Decisions and Orders, and §157.18, Motions for Rehearing; Finality of Decisions, and §157.20, Judicial Review, without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5680). The amendments implement statutory changes to Chapter 1103, Texas Occupations Code, and Chapter 2001, Texas Government Code, adopted by the 84th Legislature and clarify the action to be taken by the Board when a motion for rehearing does not include specific grounds for rehearing.

The reasoned justification for the amendments is to provide clarity to license holders and to align the rules with statutory changes adopted by the 84th Legislature.

No comments were received on the amendments as proposed.

The amendments are adopted under Texas Occupations Code §1103.151, which authorizes TALCB to adopt rules relating to certificates and licenses, and §1104.051, which authorizes TALCB to adopt rules necessary to administer Chapter 1104.

The statutes affected by these amendments are Texas Occupations Code, Chapters 1103 and 1104. No other statute, code or article is affected by the amendments.

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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22 TAC §157.19

The Texas Appraiser Licensing and Certification Board (TALCB) adopts the repeal of 22 TAC §157.19, Prerequisite to Judicial Review, without changes to the proposal as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5682). The language in this rule is being moved to §157.18, Motions for Rehearing.

The reasoned justification for the repeal is to provide clarity for license holders by moving the language in this section to a more relevant section within the Board's rules.

No comments were received on the repeal as proposed.

The repeal is adopted under the Texas Occupations Code, §1103.151, Rules Relating to Certificates and Licenses, and §1104.051, Rules.

The statutes affected by this repeal are Texas Occupations Code, Chapters 1103 and 1104. No other statute, code, or article is affected by the repeal.

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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SUBCHAPTER D. PENALTIES AND OTHER ENFORCEMENT PROVISIONS

22 TAC §157.25, §157.26

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §157.25, Temporary Suspension, and a new §157.26, Unlicensed Activity, without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5683). The amendments and new rule implement statutory changes to Chapter 2001, Texas Government Code, and Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature.

The reasoned justification for the amendments is to align the rules with statutory changes adopted by the 84th Legislature.

No comments were received on the amendments as proposed.

The amendments and new rule are adopted under Texas Occupations Code, §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1104.051, which authorizes TALCB to adopt rules necessary to administer Chapter 1104.

The statutes affected by these amendments and the new rule are Texas Occupations Code, Chapters 1103 and 1104. No other statute, code or article is affected by the amendments and the new rule.

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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SUBCHAPTER E. ALTERNATIVE DISPUTE RESOLUTION

22 TAC §157.31

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §157.31, Investigative Conference, without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5684).

The amendments implement statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature and clarify the requirements for receiving a copy of an investigative report.

The reasoned justification for the amendments is to provide clarity to license holders and to align the rule with statutory changes adopted by the 84th Legislature.

No comments were received on the amendments as proposed.

The amendments are adopted under Texas Occupations Code, §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1104.051, which authorizes TALCB to adopt rules necessary to administer Chapter 1104.

The statutes affected by these amendments are Texas Occupations Code, Chapters 1103 and 1104. No other statute, code or article is affected by the amendments.

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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PART 9. TEXAS MEDICAL BOARD

CHAPTER 190. DISCIPLINARY GUIDELINES SUBCHAPTER C. SANCTION GUIDELINES

22 TAC §190.14

The Texas Medical Board adopts an amendment to §190.14, concerning Disciplinary Sanction Guidelines, with non-substantive changes to the proposed text as published in the July 17, 2015, issue of the *Texas Register* (40 TexReg 4527). The text of the rule will be republished.

The Board sought stakeholder input through Stakeholder Groups, which made comments on the suggested changes to the rules at a meeting held on August 10, 2015. At the meeting, one commenter pointed out that the category for "Crime: Misdemeanor deferred adjudication or conviction not involving moral turpitude that is not connected with physician's practice of medicine and not an offense under Chapter 22 or 25 of the Penal Code" is not a category of violation subject to discipline under the Medical Practice Act. The Board agrees and §190.14 is adopted with non-substantive changes.

The amendment revises the graphic table in §190.14(9) to update the range and scope of sanctions for certain violations of the Medical Practice Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED

The Board received public written comments from the Texas Medical Association (TMA). No one appeared to testify at the public hearing held on August 28, 2015, regarding §190.14.

TMA Comment:

TMA asserted that the proposed high sanction of \$7,000 per violation for the category of "Standard of care - one patient, more than one prior SOC or care-related violation" exceeds the amount allowed under the Medical Practice Act. TMA further opposed a proposed increase to the administrative penalty amount of \$3,000 to \$5,000, for the low sanction range for categories of "Standard of care, one patient, more than one prior SOC or care-related violation" and "Standard of care - more than one patient, prior SOC or care-related violations." TMA stated that because \$5,000 is the maximum statutory amount permitted for each violation found, it should be reflected in the range of high sanctions, but not in the standard low sanction range. Finally, TMA recommended adding the phrase "for \$50,000 in a 5-year period" to a citation referenced for §190.8(5) of this title (relating to Violation Guidelines) under the category of "Standard of care - one patient, more than one prior SOC or care-related violation" to improve consistency with citations made to the same rule shown for other violation categories.

TMB Board Response:

The Board agrees in part. The proposed language amending the high category sanction to \$7,000 per violation for the category of "Standard of care - one patient, more than one prior SOC or care-related violation" was in error and §190.14 is adopted with non-substantive changes, reflecting the correction to the category "Standard of care - one patient, more than one prior SOC or care-related violation", so that the penalty reflected for the category's lower range is \$3,000, and \$5,000 for the higher range. The phrase "for \$50,000 in a 5-year period" is further added to the statutory/rule citation column relating to same category of violation and referencing §190.8(5).

The Board disagrees, however, that imposing the maximum sanction of \$5,000 per violation allowed under the low range of

sanctions for the category of "Standard of care - more than one patient, prior SOC or care-related violations" would be inconsistent with or disproportionate to the amount(s) allowed under other violation categories. The category of violation "Standard of care -more than one patient, prior SOC or care-related violations" is more aggravated in nature, as it indicates a pattern of standard of care violations related to more than one patient, and previous disciplinary or remedial history involving standard of care issues. Further, the low range sanction providing for a penalty of \$5,000 is consistent with the high range of sanctions for the same category, which contemplates "suspension or revocation." Therefore, the Board declines to adopt the amendments with the requested change to the category of "Standard of care - more than one patient, prior SOC or care-related violations."

The amendment is adopted under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine in this state; enforce this subtitle; and establish rules related to licensure. The amendment is also adopted under the authority of Texas Occupations Code Annotated, Chapter 164.

§190.14. Disciplinary Sanction Guidelines.

These disciplinary sanction guidelines are designed to provide guidance in assessing sanctions for violations of the Medical Practice Act. The ultimate purpose of disciplinary sanctions is to protect the public, deter future violations, offer opportunities for rehabilitation if appropriate, punish violators, and deter others from violations. These guidelines are intended to promote consistent sanctions for similar violations, facilitate timely resolution of cases, and encourage settlements.

(1) The standard sanctions outlined in paragraph (9) of this section provide a range from "Low Sanction" to "High Sanction" based upon any aggravating or mitigating factors that are found to apply in a particular case. The board may impose more restrictive sanctions when there are multiple violations of the Act. The board may impose more or less severe or restrictive sanctions, based on any aggravating and/or mitigating factors listed in §190.15 of this chapter (relating to Aggravating and Mitigating Factors) that are found to apply in a particular case.

(2) The minimum sanctions outlined in paragraph (9) of this section are applicable to first time violators. In accordance with §164.001(g)(2) of the Act, the board shall consider revoking the person's license if the person is a repeat offender.

(3) The sanctions outlined in paragraph (9) of this section are based on the conclusion stated in §164.001(j) of the Act that a violation related directly to patient care is more serious than one that involves only an administrative violation. An administrative violation may be handled informally in accordance with §187.14(7) of this title (relating to Informal Resolutions of Violations). Administrative violations may be more or less serious, depending on the nature of the violation. Administrative violations that are considered by the board to be more serious are designated as being an "aggravated administrative violation."

(4) The maximum sanction in all cases is revocation of the licensee's license, which may be accompanied by an administrative penalty of up to \$5,000 per violation. In accordance with §165.003 of the Act, each day the violation continues is a separate violation.

(5) Each statutory violation constitutes a separate offense, even if arising out of a single act.

(6) If the licensee acknowledges a violation and agrees to comply with terms and conditions of remedial action through an agreed order, the standard sanctions may be reduced.

(7) Any panel action that falls outside the guideline range shall be reviewed and voted on individually by the board at a regular meeting.

(8) For any violation of the Act that is not specifically mentioned in this rule, the board shall apply a sanction that generally follows the spirit and scheme of the sanctions outlined in this rule.

(9) The following standard sanctions shall apply to violations of the Act:

Figure: 22 TAC §190.14(9)

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

Filed with the Office of the Secretary of State on November 25, 2015.

TRD-201505185

Mari Robinson, J.D.

Executive Director

Texas Medical Board

Effective date: December 15, 2015

Proposal publication date: July 17, 2015

For further information, please call: (512) 305-7016



TITLE 28. INSURANCE

PART 2. TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION

CHAPTER 110. REQUIRED NOTICES OF COVERAGE

SUBCHAPTER B. EMPLOYER NOTICES

28 TAC §110.108, §110.110

The Texas Department of Insurance, Division of Workers' Compensation (division) adopts amendments to §110.108, concerning employer notice regarding work-related exposure to communicable disease/HIV: posting requirements; payment for tests; and §110.110, concerning reporting requirements for building or construction projects for governmental entities. Section 110.108 and §110.110 are adopted without changes to the proposed text published in the August 7, 2015, issue of the *Texas Register* (40 TexReg 5044). There was not a request for public hearing submitted to the division.

In accordance with Government Code §2001.033, the division's reasoned justification for the sections is set out in this order, which includes the preamble. The following paragraphs include a detailed section by section description and reasoned justification for all amendments to §110.108 and §110.110.

The non-substantive amendments to §110.108 and §110.110 are necessary to provide employees with the updated division phone number to report possible exposure to communicable diseases or HIV under §110.108; or to inquire about, verify,

or report the lack of coverage at construction project sites under §110.110. Amended §110.108 achieves the goals of Health and Safety Code §81.050(j), concerning mandatory testing of persons suspected of exposing certain other persons to reportable diseases, including HIV infection; Health and Safety Code §85.116, concerning testing and counseling for state employees exposed to HIV infection on the job; and Government Code §607.002, concerning reimbursement of medical expenses for public safety employees exposed to contagious diseases. The amendments provide updated contact information for the division to employees seeking guidance on exposure to a communicable disease and eligibility for benefits. Amended §110.110 achieves the goals of Labor Code §406.005, concerning employer notice to employees; administrative violation, by providing the division's updated contact information to employees inquiring about the requirements of the workers' compensation system and their employer's coverage.

Section 110.108 addresses Employee Notice Regarding Work-Related Exposure to Communicable Disease/HIV: Posting Requirements; Payment for Tests. The division amended Figure: 28 TAC §110.108(d), regarding employer notice, to update the telephone number employees use to contact the division. Amended Figure: 28 TAC §110.108(d) also reflects the change in agency name from "Texas Workers' Compensation Commission" to "Division of Workers' Compensation" and "Texas Department of Health" to "Texas Department of State Health Services." The amendments are necessary to ensure the required notice in §110.108 contains the updated phone number for the division and reflects the current agency names for the division and the Texas Department of State Health Services.

Section 110.110 addresses Reporting Requirements for Building or Construction Projects for Governmental Entities. The division amended §110.110 to reflect a change in the agency's name. The division amended §110.110(a)(1), (c)(6), Figure: 28 TAC §110.110(c)(7), and Figure: 28 TAC §110.110(d)(7), by deleting "commission" and adding "division." In §110.110(a)(5), Figure: 28 TAC §110.110(c)(7), and Figure: 28 TAC §110.110(d)(7), the division deleted "Texas Workers' Compensation Commission" and added "Division of Workers' Compensation."

The division amended Figure: 28 TAC §110.110(d)(7), regarding required workers' compensation coverage, by updating the telephone number that employees use to contact the division. Figure: 28 TAC §110.110(d)(7) was also amended to add the phrase "or access the division's website at www.tdi.texas.gov/wc/indexwc.html." An injured employee can access the division's website in addition to calling the provided telephone number to receive information on the legal requirements for coverage, to verify whether the employee's employer has the required coverage, or to report an employer's failure to provide coverage.

The division made non-substantive amendments in §110.110(a)(1), (a)(5), and Figure: 28 TAC §110.110(c)(7) to conform to current agency style. The division deleted the form names "TWCC-81, TWCC-82, TWCC-83, or TWCC-84" and added the form names "DWC Form-81, DWC Form-82, DWC Form-83, or DWC Form-84."

The division amended §110.110(b), Figure: 28 TAC §110.110(c)(7), and (e)(3) to conform to current agency style by deleting the phrase "commission's Division of Self Insurance Regulation" and adding the word "division." The division amended §110.110(c)(7) to replace "Figure 1" with "figure" to conform to current agency style.

The division did not receive any comments on the proposed amendments to §110.108 and §110.110.

The amendments are adopted under Labor Code §402.061, concerning adoption of rules; §402.00111, concerning the relationship between commissioner of insurance and commissioner of workers' compensation; separation of authority; rulemaking; §406.005, concerning employer notice to employees; administrative violation; and §406.009, concerning collecting and maintaining information; monitoring and enforcing compliance.

Labor Code §402.061 authorizes the commissioner to adopt rules as necessary for the implementation and administration of the Texas Workers' Compensation Act. Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority, under Title 5 of the Labor Code.

Labor Code §406.005 provides that an employer shall post a notice of whether the employer has workers' compensation insurance coverage, and vests the commissioner with the power to adopt rules relating to the form and content of the notice.

Labor Code §406.009 requires the division to collect and maintain information, to monitor compliance, and to adopt rules as necessary to enforce Subchapter A of Chapter 406.

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

Filed with the Office of the Secretary of State on November 24, 2015.

TRD-201505160

Dirk Johnson

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

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Proposal publication date: August 7, 2015

For further information, please call: (512) 804-4707

TITLE 43. TRANSPORTATION

PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 219. OVERSIZE AND OVERWEIGHT VEHICLES AND LOADS

The Texas Department of Motor Vehicles (department) adopts amendments to Chapter 219, Oversize and Overweight Vehicles and Loads, Subchapter A: §219.1, Purpose and Scope; and §219.2, Definitions; Subchapter B: §219.10, Purpose and Scope; §219.11, General Oversize/Overweight Permit Requirements and Procedures; §219.12, Single-Trip Permits Issued Under Transportation Code, Chapter 623, Subchapter D; §219.13, Time Permits; and §219.14, Manufactured Housing, and Industrialized Housing and Building Permits; Subchapter C: §219.31, Timber Permits; Subchapter D: §219.41, General Requirements; §219.42, Single-Trip Mileage Permits; §219.43, Quarterly Hubometer Permits; and §219.45, Permits for Vehicles Transporting Liquid Products Related to Oil Well Production; Subchapter E: §219.61, General Requirements

for Permits for Oversize and Overweight Unladen Lift Equipment Motor Vehicles; §219.62, Single-Trip Mileage Permits; and §219.63, Quarterly Hubometer Permits; Subchapter G: §219.102, Records; and Subchapter H: §219.121, Administrative Penalties; and §219.125, Settlement Agreements. The amendments to §§219.11, 219.13, and 219.62 are adopted with changes to the proposed text as published in the September 18, 2015, issue of the *Texas Register* (40 TexReg 6317) and will be republished.

EXPLANATION OF ADOPTED AMENDMENTS

In §219.2(36), the department replaced the term "nondivisible load" with the term "nondivisible load or vehicle." The department also replaced the definition with the definition from 23 C.F.R. §658.5 for the term "nondivisible load or vehicle." Texas must comply with certain federal size and weight laws and regulations to receive federal highway funding.

Amendments are made throughout Chapter 219 to use the term "nondivisible load" or "nondivisible vehicle" where the defined term applies. Other amendments replace the terms "nondivisible" and "non-divisible" with other language when the definition of the term "nondivisible load or vehicle" does not apply. Amendments to §219.12(b)(6) and §219.13(e)(4) make it clear that the permit may not be used for containers, including trailers and intermodal containers, loaded with divisible cargo, unless the permit is a single-trip permit issued for a load under §219.12(c).

An amendment to §219.11(d)(1)(E) clarifies that a permitted vehicle or combination of vehicles may not exceed the manufacturer's rated tire carrying capacity, unless expressly authorized in the language on the permit. Transportation Code, §621.101(a)(4) states that a vehicle or combination of vehicles may not be operated over or on a public highway or at a port-of-entry between Texas and the United Mexican States if the vehicle or combination of vehicles has tires that carry a weight heavier than the weight specified and marked on the sidewall of the tire, unless the vehicle is being operated under the terms of a special permit. The amendment to §219.11(d)(1)(E) is necessary because the department has received calls from people who mistakenly believe that any permit authorizes the permitted vehicle or combination of vehicles to exceed the manufacturer's rated tire carrying capacity, even when the permit does not expressly authorize it.

Amendments to §219.11(d)(2)(G) clarify the weight requirements for trunnion axles, add additional requirements, make it clear that there is an authorized weight per axle, and delete the unnecessary graphic because the requirements are stated in §219.11(d)(2)(G). These amendments assist law enforcement by providing clear requirements.

Amendments to §219.11(e)(3) clarify that the permit authorizes the permitted vehicle to move oversize and overweight hauling equipment to pick up a permitted load, as well as on the return trip after dropping off the permitted load. The permit also authorizes the permitted vehicle to transport a load on the way to pick up a permitted load and after dropping off a permitted load, as long as the load does not exceed legal size and weight limits and as long as the transport complies with the permit. Similar amendments clarify the movement of overwidth trailers in §219.13(c)(3).

An adopted amendment deletes language from §219.11(e)(4)(A) and §219.13(e)(5)(D) regarding the requirement to keep the permit in the permitted vehicle because this issue is addressed in the amendments to §219.102(b), which applies to all permits. An

amendment deletes the remainder of §219.11(e)(4) because the department's requirements to retain records are contained in the department's records retention schedule. Also, some of the language in §219.11(e)(4) was incorrect.

An amendment modifies the language in §219.11(h)(1) and §219.13(e)(2)(D) because it is sometimes necessary for a route to include a designated lane, rather than the outside traffic lane, due to overhead structures of varying heights.

An amendment to §219.11(k)(4)(A) clarifies the purpose of the height pole.

An amendment to §219.11(k)(5) deletes the unnecessary example regarding escort requirements.

An amendment to §219.11(l)(4) clarifies that counties also impose curfew restrictions; however, only the curfew restrictions listed on the permit apply to the permit.

An amendment to §219.12(b)(6) deletes the exemption from the vehicle supervision fee under Transportation Code, §623.078 for single and multiple box culverts because the statute does not authorize this exemption.

An amendment to §219.12(b)(7)(C) deletes the unnecessary requirement for applicants to provide the department with a copy of the signed contract for the proposed shipment. The adopted amendment replaces this requirement with a form that provides the department with the necessary information.

An amendment to §219.12(c)(2) increases the maximum width from nine feet to 10 feet because pipe boxes are now built slightly wider than nine feet.

An amendment to §219.12(d)(5) and (6) deletes language that is outdated. The department will permit based on the size and weight, rather than the type of load, under this subsection. There is no reason to treat storage tanks and houses differently in this subsection.

An amendment to §219.13(d)(2)(B) deletes language regarding an exception because the department does not issue this permit if there is more than 25 feet front overhang or more than 30 feet rear overhang. If a vehicle and load exceed one of these limits, a single-trip permit with a route inspection is required.

Adopted §219.13(e)(8) implements the new annual overlength permit authorized by Senate Bill 562, 84th Legislature, Regular Session, 2015. Senate Bill 562 amended Transportation Code, §623.071 and §623.076, authorizing the department to issue a permit to a person to operate over a state highway or road a vehicle or combination of vehicles with a maximum length not to exceed 110 feet and a maximum height not to exceed 14 feet. Section 219.13(e)(8) establishes the requirements, restrictions, and procedures regarding this new permit.

Amendments to §219.102 update the requirements regarding evidence of the permit. The amendments expressly authorize an operator to provide a department inspector or a peace officer with an electronic copy of certain permits on a wireless communication device. Industry requested this amendment because it is not always easy for the driver to obtain a hard copy of the permit to carry in the vehicle, especially when the driver is operating in a rural part of Texas.

An amendment to §219.121(b)(2) duplicates the definition of the word "knowingly" that is used in §218.71 because Transportation Code, §643.251 governs administrative penalties for Chapters 218 and 219.

Amendments to §219.125 allow more flexibility regarding settlement agreements.

Amendments throughout Chapter 219 reflect the role of the Texas Department of Transportation (TxDOT) regarding permits. These amendments are necessary to describe the procedure and practice requirements regarding certain permits.

Amendments in more than one section are adopted because a route must be inspected for the movement of both the vehicle and load to make sure both the vehicle and load can safely negotiate the route.

Amendments are adopted to make the rules consistent with current practice, current terminology, other department rules, and current statutes. For example, amendments add the application requirements to obtain certain permits, and amendments delete certain language because permit applications are no longer accepted at cash collection offices. Amendments also correct cross-references.

Amendments delete language that repeats language found in other parts of Chapter 219 and in statute. Also, the department reorganized portions of Chapter 219 for clarity. Further, the department restructured portions of Chapter 219 due to deletions and additions.

COMMENTS AND RESPONSES

The department received written comments from the Texas Trucking Association (TXTA), TxDOT, and Larry Cernosek with Cernosek Wrecker/Deer Park Paint & Body.

COMMENT

TXTA supports the department's proposed amendments to Chapter 219 and respectfully urges the Board of the Texas Department of Motor Vehicles (board) to adopt the proposed amendments.

COMMENT

TxDOT requested changes to the proposed language in §219.11 to make it clear that non-TxDOT engineers merely provide an analysis, rather than an approval, because TxDOT provides the approval. TxDOT also requested changes to the proposed language in §219.11 to make it clear that TxDOT determines whether a permitted vehicle or combination of vehicles is authorized to exceed the manufacturer's rated tire carrying capacity. TxDOT further requested changes to the proposed deletion of language in §219.11(h)(1) and §219.13(e)(2)(D) because over-width loads must travel in the outside traffic lane on multi-lane highways when the width of the load exceeds 12 feet, unless stated otherwise on the permit. The permit holder is not allowed to pick the lane in which they will travel.

RESPONSE

The department made the changes requested by TxDOT and republished §219.11 and §219.13.

COMMENT

Larry Cernosek with Cernosek Wrecker/Deer Park Paint & Body stated he did not see the overweight and overlength exemptions in Chapter 219 for tow trucks hauling vehicles from the scene of an accident or after a breakdown.

RESPONSE

Because the exemptions are included in Transportation Code, §§621.205(b), 622.902(6), and 622.954, there is no need to repeat the exemptions in Chapter 219.

The department also made changes to the rules as published in the September 18, 2015, issue of the *Texas Register* as follows: changes were made to §219.11 and §219.62 to correct drafting errors.

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §219.1, §219.2

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 duties of the department under the Transportation Code; and more specifically, Transportation Code, §§621.008, 622.002, and 623.002, which authorize the board to adopt rules that are necessary to implement and enforce Chapters 621, 622, and 623.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 621, 622, and 623.

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

Filed with the Office of the Secretary of State on November 24, 2015.

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David D. Duncan

General Counsel

Texas Department of Motor Vehicles

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Proposal publication date: September 18, 2015

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



SUBCHAPTER B. GENERAL PERMITS

43 TAC §§219.10 - 219.14

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 duties of the department under the Transportation Code; and more specifically, Transportation Code, §§621.008, 622.002, and 623.002, which authorize the board to adopt rules that are necessary to implement and enforce Chapters 621, 622, and 623.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 621, 622, and 623.

§219.11. General Oversize/Overweight Permit Requirements and Procedures.

(a) Purpose and scope. This section contains general requirements relating to oversize/overweight permits, including single-trip permits. Specific requirements for each type of specialty permit are provided for in this chapter.

(b) Prerequisites to obtaining an oversize/overweight permit. Unless exempted by law or this chapter, the following requirements must be met prior to the issuance of an oversize/overweight permit.

(1) Commercial motor carrier registration or surety bond. Prior to obtaining an oversize/overweight permit, an applicant permitted under the provisions of Transportation Code, Chapter 623, Subchapter D, must be registered as a commercial motor carrier under Chapter 218 of this title (relating to Motor Carriers) or, if not required to obtain a motor carrier registration, file a surety bond with the department as described in subsection (n) of this section.

(2) Vehicle registration. A vehicle registered with a permit plate will not be issued an oversize/overweight permit under this subchapter. A permitted vehicle operating under this subchapter must be registered with one of the following types of vehicle registration:

(A) current Texas license plates that indicate the permitted vehicle is registered for maximum legal gross weight or the maximum weight the vehicle can transport;

(B) Texas temporary vehicle registration;

(C) current out of state license plates that are apportioned for travel in Texas; or

(D) foreign commercial vehicles registered under Texas annual registration.

(c) Permit application.

(1) An application for a permit shall be made in a form and by the method prescribed by the department, and at a minimum shall include the following:

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

(B) applicant's customer identification number;

(C) applicant's MCR number or USDOT Number, if applicable;

(D) complete load description, including maximum width, height, length, overhang, and gross weight;

(E) complete description of vehicle, including truck year, make, license plate number and state of issuance, and vehicle identification number, if required;

(F) vehicle axle and tire information including number of axles, distance between axles, axle weights, number of tires, and tire size for overweight permit applications; and

(G) any other information required by law.

(2) Applications transmitted electronically are considered signed if a digital signature is transmitted with the application and intended by the applicant to authenticate the application.

(A) The department may only accept a digital signature used to authenticate an application under procedures that comply with any applicable rules adopted by the Department of Information Resources regarding department use or acceptance of a digital signature.

(B) The department may only accept a digital signature to authenticate an application if the digital signature is:

(i) unique to the person using it;

(ii) capable of independent verification;

(iii) under the sole control of the person using it; and

(iv) transmitted in a manner that will make it infeasible to change the data in the communication or digital signature without invalidating the digital signature.

(d) Maximum permit weight limits.

(1) General. An overweight permitted vehicle will not be routed over a load-restricted bridge when exceeding the posted capacity of the bridge, unless a special exception is granted by TxDOT, based on an analysis of the bridge performed by a TxDOT approved licensed professional engineer or by TxDOT. Any analysis by a non-TxDOT engineer must have final approval from TxDOT.

(A) An axle group must have a minimum spacing of four feet, measured from center of axle to center of axle, between each axle in the group to achieve the maximum permit weight for the group.

(B) The maximum permit weight for an axle group with spacing of five or more feet between each axle will be based on an engineering study of the equipment conducted by TxDOT.

(C) A permitted vehicle will be allowed to have air suspension, hydraulic suspension and mechanical suspension axles in a common weight equalizing suspension system for any axle group.

(D) The department may permit axle weights greater than those specified in this section, for a specific individual permit request, based on an engineering study of the route and hauling equipment performed by a TxDOT approved licensed professional engineer or by TxDOT. Any analysis by a non-TxDOT engineer must have final approval from TxDOT.

(E) A permitted vehicle or combination of vehicles may not exceed the manufacturer's rated tire carrying capacity, unless expressly authorized in the language on the permit based on an analysis performed by a TxDOT approved licensed professional engineer or by TxDOT. Any analysis by a non-TxDOT engineer must have final approval from TxDOT.

(F) Two or more consecutive axle groups having an axle spacing of less than 12 feet, measured from the center of the last axle of the preceding group to the center of the first axle of the following group, will be reduced by 2.5% for each foot less than 12 feet.

(2) Maximum axle weight limits. Maximum permit weight for an axle or axle group is based on 650 pounds per inch of tire width or the following axle or axle group weights, whichever is the lesser amount:

(A) single axle--25,000 pounds;

(B) two axle group--46,000 pounds;

(C) three axle group--60,000 pounds;

(D) four axle group--70,000 pounds;

(E) five axle group--81,400 pounds;

(F) axle group with six or more axles--determined by TxDOT based on an engineering study of the equipment, which will include the type of steering system used, the type of axle suspension, the spacing distance between each axle, the number of tires per axle, and the tire size on each axle; or

(G) trunnion axles--30,000 pounds per axle if the trunnion configuration has:

(i) two axles;

(ii) eight tires per axle;

(iii) axles a minimum of 10 feet in width; and

(iv) at least five feet of spacing between the axles, not to exceed six feet.

(3) Weight limits for load restricted roads. Maximum permit weight for an axle or axle group, when traveling on a load restricted road, will be based on 650 pounds per inch of tire width or the following axle or axle group weights, whichever is the lesser amount:

- (A) single axle--22,500 pounds;
- (B) two axle group--41,400 pounds;
- (C) three axle group--54,000 pounds;
- (D) four axle group--63,000 pounds;
- (E) five axle group--73,260 pounds;

(F) axle group with six or more axles--determined by TxDOT based on an engineering study of the equipment, which will include the type of steering system used, the type of axle suspension, the spacing distance between each axle, the number of tires per axle, and the tire size on each axle;

(G) trunnion axles--54,000 pounds; and

(H) two or more consecutive axle groups having an axle spacing of less than 12 feet, measured from the center of the last axle of the preceding group to the center of the first axle of the following group will be reduced by 2.5% for each foot less than 12 feet.

(e) Permit issuance.

(1) General. Upon receiving an application in the form prescribed by the department, the department will review the permit application for the appropriate information and will then determine the most practical route based on information provided by TxDOT. After a route is selected and a permit number is assigned by the department, an applicant requesting a permit by telephone must legibly enter all necessary information on the permit application, including the approved route and permit number. Permit requests made by methods other than telephone will be returned via facsimile, mail, or electronically.

(2) Routing.

(A) A permitted vehicle will be routed over the most practical route available taking into consideration:

(i) the size and weight of the overdimension load in relation to vertical clearances, width restrictions, steep grades, and weak or load restricted bridges;

(ii) the geometrics of the roadway in comparison to the overdimension load;

(iii) sections of highways restricted to specific load sizes and weights due to construction, maintenance, and hazardous conditions;

(iv) traffic conditions, including traffic volume;

(v) route designations by municipalities in accordance with Transportation Code, §623.072;

(vi) load restricted roads; and

(vii) other considerations for the safe transportation of the load.

(B) When a permit applicant desires a route other than the most practical, more than one permit will be required for the trip unless an exception is granted by the department.

(3) Movement to and from point of origin or place of business. A permitted vehicle will be allowed to:

(A) move empty oversize and overweight hauling equipment to and from the job site; and

(B) move oversize and overweight hauling equipment with a load from the permitted vehicle's point of origin to pick up a permitted load, and to the permitted vehicle's point of origin or the permittee's place of business after dropping off a permitted load, as long as:

(i) the load does not exceed legal size and weight limits under Transportation Code, Chapters 621 and 622; and

(ii) the transport complies with the permit, including the time period stated on the permit.

(f) Payment of permit fees, refunds.

(1) Payment methods. All permit applications must be accompanied by the proper fee, which shall be payable as provided by §209.23 of this title (relating to Methods of Payment).

(A) Permit Account Card (PAC). Application for a PAC should be made directly to the issuing institution. A PAC must be established and maintained according to the contract provisions stipulated between the PAC holder and the financial institution under contract to the department and the Comptroller of Public Accounts.

(B) Escrow accounts. A permit applicant may establish an escrow account with the department for the specific purpose of paying any fee that is related to the issuance of a permit under this subchapter.

(i) A permit applicant who desires to establish an escrow account shall complete and sign an escrow account agreement, and shall return the completed and signed agreement to the department with a check in the minimum amount of \$305, which shall be deposited to the appropriate fund by the department with the Comptroller of Public Accounts. In lieu of submitting a check for the initial deposit to an applicant's escrow account, the applicant may transfer funds to the department electronically.

(ii) Upon initial deposit, and each subsequent deposit made by the escrow account holder, \$5 will be charged as an escrow account administrative fee.

(iii) The escrow account holder is responsible for monitoring of the escrow account balance.

(iv) An escrow account holder must submit a written request to the department to terminate the escrow account agreement. Any remaining balance will be returned to the escrow account holder.

(2) Refunds. A permit fee will not be refunded after the permit number has been issued unless such refund is necessary to correct an error made by the permit officer.

(g) Amendments. A permit may be amended for the following reasons:

(1) vehicle breakdown;

(2) changing the intermediate points in an approved permit route;

(3) extending the expiration date due to conditions which would cause the move to be delayed;

(4) changing route origin or route destination prior to the start date as listed on the permit;

(5) changing vehicle size limits prior to the permit start date as listed on the permit, provided that changing the vehicle size limit does not necessitate a change in the approved route; and

(6) correcting any mistake that is made due to permit officer error.

(h) Requirements for overwidth loads.

(1) Unless stated otherwise on the permit, an overwidth load must travel in the outside traffic lane on multi-lane highways, when the width of the load exceeds 12 feet.

(2) Overwidth loads are subject to the escort requirements of subsection (k) of this section.

(3) A permitted vehicle exceeding 16 feet in width will not be routed on the main lanes of a controlled access highway, unless an exception is granted by TxDOT, based on a route and traffic study. The load may be permitted on the frontage roads when available, if the movement will not pose a safety hazard to other highway users.

(4) An applicant requesting a permit to move a load exceeding 20 feet wide will be furnished with a proposed route. The applicant must physically inspect the proposed route to determine if the vehicle and load can safely negotiate it, unless an exception is granted based on a route and traffic study conducted by TxDOT. A permit application and the appropriate fee are required for every route inspection.

(A) The applicant must notify the department in writing whether the vehicle and load can or cannot safely negotiate the proposed route.

(B) If any section of the proposed route is unacceptable, the applicant shall provide the department with an alternate route around the unacceptable section.

(C) Once a route is decided upon and a permit issued, the permit may not be amended unless an exception is granted by the department.

(i) Requirements for overlength loads.

(1) Overlength loads are subject to the escort requirements stated in subsection (k) of this section.

(2) A single vehicle, such as a motor crane, that has a permanently mounted boom is not considered as having either front or rear overhang as a result of the boom because the boom is an integral part of the vehicle.

(3) When a single vehicle with a permanently attached boom exceeds the maximum legal length of 45 feet, a permit will not be issued if the boom projects more than 25 feet beyond the front bumper of the vehicle, or when the boom projects more than 30 feet beyond the rear bumper of the vehicle, unless an exception is granted by TxDOT, based on a route and traffic study.

(4) Maximum permit length for a single vehicle is 75 feet.

(5) A load extending more than 20 feet beyond the front or rearmost portion of the load carrying surface of the permitted vehicle must have a rear escort, unless an exception is granted by TxDOT, based on a route and traffic study.

(6) A permit will not be issued for a vehicle and oversize load with:

(A) more than 25 feet front overhang; or

(B) more than 30 feet rear overhang, unless an exception is granted by TxDOT, based on a route and traffic study.

(7) An applicant requesting a permit to move an oversize vehicle and load exceeding 125 feet overall length will be furnished with a proposed route. The applicant must physically inspect the proposed route to determine if the oversize vehicle and load can safely

negotiate it, unless an exception is granted based on a route and traffic study conducted by TxDOT. A permit application and the appropriate fee are required for every route inspection.

(A) The applicant must notify the department in writing whether the oversize vehicle and load can or cannot safely negotiate the proposed route.

(B) If any section of the proposed route is unacceptable, the applicant shall provide the department with an alternate route around the unacceptable section.

(C) Once a route is decided upon and a permit issued, the permit may not be amended unless an exception is granted by the department.

(8) A permitted vehicle that is not overwidth or overheight, and does not exceed 150 feet overall length, may be moved in a convoy consisting of not more than four overlength permitted vehicles. A permitted vehicle that is not overwidth or overheight that exceeds 150 feet, but does not exceed 180 feet overall length, may be moved in a convoy consisting of not more than two overlength permitted vehicles. Convoys are subject to the requirements of subsection (k) of this section. Each permitted vehicle in the convoy must:

(A) be spaced at least 1,000 feet, but not more than 2,000 feet, from any other permitted vehicle in the convoy; and

(B) have a rotating amber beacon or an amber pulsating light, not less than eight inches in diameter, mounted at the rear top of the load being transported.

(j) Requirements for overheight loads.

(1) Overheight loads are subject to the escort requirements stated in subsection (k) of this section.

(2) An applicant requesting a permit to move an oversize vehicle and load with an overall height of 19 feet or greater will be furnished with a proposed route. The applicant must physically inspect the proposed route to determine if the oversize vehicle and load can safely negotiate it, unless an exception is granted based on a route and traffic study conducted by TxDOT. A permit application and the appropriate fee are required for every route inspection.

(A) The applicant must notify the department in writing whether the oversize vehicle and load can or cannot safely negotiate the proposed route.

(B) If any section of the proposed route is unacceptable, the applicant shall provide the department with an alternate route around the unacceptable section.

(C) Once a route is decided upon and a permit issued, the permit may not be amended unless an exception is granted by the department.

(k) Escort vehicle requirements. Escort vehicle requirements are provided to facilitate the safe movement of permitted vehicles and to protect the traveling public during the movement of permitted vehicles. A permittee must provide for escort vehicles and law enforcement assistance when required by TxDOT. The requirements in this subsection do not apply to the movement of manufactured housing, portable building units, or portable building compatible cargo.

(1) General.

(A) Applicability. The operator of an escort vehicle shall, consistent with applicable law, warn the traveling public when:

(i) a permitted vehicle must travel over the center line of a narrow bridge or roadway;

(ii) a permitted vehicle makes any turning movement that will require the permitted vehicle to travel in the opposing traffic lanes;

(iii) a permitted vehicle reduces speed to cross under a low overhead obstruction or over a bridge;

(iv) a permitted vehicle creates an abnormal and unusual traffic flow pattern; or

(v) in the opinion of TxDOT, warning is required to ensure the safety of the traveling public or safe movement of the permitted vehicle.

(B) Law enforcement assistance. Law enforcement assistance may be required by TxDOT to control traffic when a permitted vehicle is being moved within the corporate limits of a city, or at such times when law enforcement assistance would provide for the safe movement of the permitted vehicle and the traveling public.

(C) Obstructions. It is the responsibility of the permittee to contact utility companies, telephone companies, television cable companies, or other entities as they may require, when it is necessary to raise or lower any overhead wire, traffic signal, street light, television cable, sign, or other overhead obstruction. The permittee is responsible for providing the appropriate advance notice as required by each entity.

(2) Escort requirements for overwidth loads. Unless an exception is granted based on a route and traffic study conducted by TxDOT, an overwidth load must:

(A) have a front escort vehicle if the width of the load exceeds 14 feet, but does not exceed 16 feet, when traveling on a two lane roadway;

(B) have a rear escort vehicle if the width of the load exceeds 14 feet, but does not exceed 16 feet, when traveling on a roadway of four or more lanes; and

(C) have a front and a rear escort vehicle for all roads, when the width of the load exceeds 16 feet.

(3) Escort requirements for overlength loads. Unless an exception is granted by TxDOT, based on a route and traffic study, overlength loads must have:

(A) a front escort vehicle when traveling on a two lane roadway if the vehicle exceeds 110 feet overall length, but does not exceed 125 feet overall length;

(B) a rear escort vehicle when traveling on a multi-lane highway if the vehicle exceeds 110 feet overall length, but does not exceed 125 feet overall length; and

(C) a front and rear escort vehicle at all times if the permitted vehicle exceeds 125 feet overall length.

(4) Escort requirements for overheight loads. Unless an exception is granted by TxDOT, based on a route and traffic study, overheight loads must have:

(A) a front escort vehicle equipped with a height pole to ensure the vehicle and load can clear all overhead obstructions for any permitted vehicle that exceeds 17 feet in height; and

(B) a front and rear escort vehicle for any permitted vehicle exceeding 18 feet in height.

(5) Escort requirements for permitted vehicles exceeding legal limits in more than one dimension. When a load exceeds more than one dimension that requires an escort under this subsection, front and rear escorts will be required unless an exception is granted by TxDOT.

(6) Escort requirements for convoys. Convoys must have a front escort vehicle and a rear escort vehicle on all highways at all times.

(7) General equipment requirements. The following special equipment requirements apply to permitted vehicles and escort vehicles that are not motorcycles.

(A) An escort vehicle must be a single unit with a gross vehicle weight (GVW) of not less than 1,000 pounds nor more than 10,000 pounds.

(B) An escort vehicle must be equipped with two flashing amber lights or one rotating amber beacon of not less than eight inches in diameter, affixed to the roof of the escort vehicle, which must be visible to the front, sides, and rear of the escort vehicle while actively engaged in escort duties for the permitted vehicle.

(C) An escort vehicle must display a sign, on either the roof of the vehicle, or the front and rear of the vehicle, with the words "OVERSIZE LOAD" or "WIDE LOAD." The sign must be visible from the front and rear of the vehicle while escorting the permitted load. The sign must meet the following specifications:

(i) at least five feet, but not more than seven feet in length, and at least 12 inches, but not more than 18 inches in height;

(ii) the sign must have a yellow background with black lettering;

(iii) letters must be at least eight inches, but not more than 10 inches high with a brush stroke at least 1.41 inches wide; and

(iv) the sign must be visible from the front or rear of the vehicle while escorting the permitted vehicle, and the signs must not be used at any other time.

(D) An escort vehicle must maintain two-way communications with the permitted vehicle and other escort vehicles involved with the movement of the permitted vehicle.

(E) Warning flags must be either red or orange fluorescent material, at least 12 inches square, securely mounted on a staff or securely fastened by at least one corner to the widest extremities of an overwidth permitted vehicle, and at the rear of an overlength permitted vehicle or a permitted vehicle with a rear overhang in excess of four feet.

(8) Equipment requirements for motorcycles.

(A) An official law enforcement motorcycle may be used as a primary escort vehicle for a permitted vehicle traveling within the limits of an incorporated city, if the motorcycle is operated by a highway patrol officer, sheriff, or duly authorized deputy, or municipal police officer.

(B) An escort vehicle must maintain two-way communications with the permitted vehicle and other escort vehicles involved with the movement of the permitted vehicle.

(1) Restrictions.

(1) 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:

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

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

(2) Daylight and night movement restrictions.

(A) A permitted vehicle may be moved only during daylight hours unless:

(i) the permitted vehicle is overweight only;

(ii) the permitted vehicle is traveling on an interstate highway and does not exceed 10 feet wide and 100 feet long, with front and rear overhang that complies with legal standards; or

(iii) the permitted vehicle meets the criteria of clause (ii) of this subparagraph and is overweight.

(B) An exception may be granted allowing night movement, based on a route and traffic study conducted by TxDOT. Escorts may be required when an exception allowing night movement is granted.

(3) Holiday restrictions. The maximum size limits for a permit issued under Transportation Code, Chapter 623, Subchapter D, for holiday movement is 14 feet wide, 16 feet high, and 110 feet long, unless an exception is granted based on a route and traffic study conducted by TxDOT. The department may restrict holiday movement of specific loads based on a determination that the load could pose a hazard for the traveling public due to local road or traffic conditions.

(4) Curfew restrictions. The operator of a permitted vehicle must observe the curfew movement restrictions of any city or county in which the vehicle is operated. However, only the curfew restrictions listed on the permit apply to the permit.

(m) General provisions.

(1) Multiple commodities.

(A) Except as provided in subparagraph (B) of this paragraph, when a permitted commodity creates a single overdimension, two or more commodities may be hauled as one permit load, provided legal axle weight and gross weight are not exceeded, and provided an overdimension of width, length or height is not created or made greater by the additional commodities. For example, a permit issued for the movement of a 12 foot wide storage tank may also include a 10 foot wide storage tank loaded behind the 12 foot wide tank provided that legal axle weight and gross weight are not exceeded, and provided an overdimension of width, length or height is not created.

(B) When the transport of more than one commodity in a single load creates or makes greater an illegal dimension of length, width, or height the department may issue an oversize permit for such load subject to each of the following conditions.

(i) The permit applicant or the shipper of the commodities files with the department a written certification by the Texas Department of Economic Development, approved by the Office of the Governor, attesting that issuing the permit will have a significant positive impact on the economy of Texas and that the proposed load of multiple commodities therefore cannot be reasonably dismantled. As used in this clause the term significant positive impact means the creation of not less than 100 new full-time jobs, the preservation of not less than 100 existing full-time jobs, that would otherwise be eliminated if the permit is not issued, or creates or retains not less than one percent of the employment base in the affected economic sector identified in the certification.

(ii) Transport of the commodities does not exceed legal axle and gross load limits.

(iii) The permit is issued in the same manner and under the same provisions as would be applicable to the transport of a single oversize commodity under this section; provided, however, that

the shipper and the permittee also must indemnify and hold harmless the department, its board members, officers, and employees from any and all liability for damages or claims of damages including court costs and attorney fees, if any, which may arise from the transport of an oversized load under a permit issued pursuant to this subparagraph.

(iv) The shipper and the permittee must file with the department a certificate of insurance on a form prescribed by the department, or otherwise acceptable to the department, naming the department, its board members, officers, and employees as named or additional insurers on its comprehensive general liability insurance policy for coverage in the amount of \$5 million per occurrence, including court costs and attorney fees, if any, which may arise from the transport of an oversized load under a permit issued pursuant to this subparagraph. The insurance policy is to be procured from a company licensed to transact insurance business in the State of Texas.

(v) The shipper and the permittee must file with the department, in addition to all insurance provided in clause (iv) of this subparagraph, a certificate of insurance on a form prescribed by the department, or otherwise acceptable to the department, naming the department, its board members, officers, and employees as insurers under an auto liability insurance policy for the benefit of said insurers in an amount of \$5 million per accident. The insurance policy is to be procured from a company licensed to transact insurance business in the State of Texas. If the shipper or the permittee is self-insured with regard to automobile liability then that party must take all steps and perform all acts necessary under the law to indemnify the department, its board members, officers, and employees as if the party had contracted for insurance pursuant to, and in the amount set forth in, the preceding sentence and shall agree to so indemnify the department, its board members, officers, and employees in a manner acceptable to the department.

(vi) Issuance of the permit is approved by written order of the board which written order may be, among other things, specific as to duration and routes.

(C) An applicant requesting a permit to haul a dozer and its detached blade may be issued a permit, as a non-dismantable load, if removal of the blade will decrease the overall width of the load, thereby reducing the hazard to the traveling public.

(2) Oversize hauling equipment. A vehicle that exceeds the legal size limits, as set forth by Transportation Code, Chapter 621, Subchapter C, may only haul a load that exceeds legal size limits unless otherwise noted in this subchapter, but such vehicle may haul an overweight load that does not exceed legal size limits, except for the special exception granted in §219.13(c)(3) of this title (relating to Time Permits).

(n) Surety bonds.

(1) General. The following conditions apply to surety bonds specified in Transportation Code, §623.075.

(A) The surety bond must:

(i) be made payable to the department with the condition that the applicant will pay the department for any damage caused to the highway by the operation of the equipment covered by the surety bond;

(ii) be 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.

(iii) include the complete mailing address and zip code of the principal;

(iv) be filed with the department and have an original signature of the principal;

(v) have a single entity as principal with no other principal names listed; and

(vi) A non-resident agent with a valid Texas insurance license may issue a bond on behalf of an authorized insurance company when in compliance with Insurance Code, Chapter 4056.

(B) A certificate of continuation will not be accepted.

(C) The owner of a vehicle bonded under Transportation Code, §623.075 or §623.163, that damages the state highway system as a result of the permitted vehicle's movement will be notified by certified mail of the amount of damage and will be given 30 days to submit payment for such damage. Failure to make payment within 30 days will result in TxDOT placing the claim with the attorney general for collection.

(D) The venue of any suit for a claim against a surety bond for the movement of a vehicle permitted under the provisions of Transportation Code, Chapter 623, Subchapter D, will be any court of competent jurisdiction in Travis County.

(2) Permit surety bonds.

(A) A surety bond required under the provisions of Transportation Code, Chapter 623, Subchapter D, must be submitted on the department's standard surety bond form in the amount of \$10,000.

(B) A facsimile or electronic copy of the surety bond is acceptable in lieu of the original surety bond, for a period not to exceed 10 days from the date of its receipt in the department. If the original surety bond has not arrived in the department by the end of the 10 days, the applicant will not be issued a permit until the original surety bond has been received in the department.

(C) The surety bond requirement does apply to the delivery of farm equipment to a farm equipment dealer.

(D) A surety bond is required when a dealer or transporter of farm equipment or a manufacturer of farm equipment obtains a permit.

(E) The surety bond requirement does not apply to driving or transporting farm equipment which is being used for agricultural purposes if it is driven or transported by or under the authority of the owner of the equipment.

(F) The surety bond requirement does not apply to a vehicle or equipment operated by a motor carrier registered with the department under Transportation Code, Chapters 643 or 645 as amended.

§219.13. Time Permits.

(a) General information. Applications for time permits issued under Transportation Code, Chapter 623, and this section shall be made in accordance with §219.11(b) and (c) of this title (relating to General Oversize/Overweight Permit Requirements and Procedures). Permits issued under this section are governed by the requirements of §219.11(e)(1).

(b) 30, 60, and 90 day permits. The following conditions apply to time permits issued for overwidth or overlength loads, or overlength vehicles, under this section.

(1) Fees. The fee for a 30-day permit is \$120; the fee for a 60-day permit is \$180; and the fee for a 90-day permit is \$240. All fees are payable in accordance with §219.11(f). All fees are non-refundable.

(2) Validity of Permit. Time permits are valid for a period of 30, 60, or 90 calendar days, based on the request of the applicant, and will begin on the effective date stated on the permit.

(3) Weight/height limits. The permitted vehicle may not exceed the weight or height limits set forth by Transportation Code, Chapter 621, Subchapters B and C.

(4) Registration requirements for permitted vehicles. Time permits will not be issued to a vehicle or vehicle combination that is registered with temporary vehicle registration.

(5) Vehicle indicated on permit. The permit will indicate only the truck or truck-tractor transporting the load; however, any properly registered trailer or semi-trailer is covered by the permit.

(6) Permit routes. The permit will allow travel on a statewide basis.

(7) Restrictions.

(A) The permitted vehicle must not cross a load restricted bridge or load restricted road when exceeding the posted capacity of the road or bridge.

(B) The permitted vehicle may travel through highway construction or maintenance areas if the dimensions do not exceed the construction restrictions as published by the department.

(C) The permitted vehicle is subject to the restrictions specified in §219.11(l), and the permittee is responsible for obtaining from the department information concerning current restrictions.

(8) Escort requirements. Permitted vehicles are subject to the escort requirements specified in §219.11(k).

(9) Transfer of time permits. Time permits issued under this subsection are non-transferable between permittees or vehicles.

(10) Amendments. With the exception of time permits issued under subsection (e)(4) of this section, time permits issued under this subsection will not be amended except in the case of permit officer error.

(c) Overwidth loads. An overwidth time permit may be issued for the movement of any load or overwidth trailer, subject to subsection (a) of this section and the following conditions:

(1) Width requirements.

(A) A time permit will not be issued for a vehicle with a width exceeding 13 feet.

(B) When multiple items are hauled at the same time, the items may not be loaded in a manner that creates a width greater than the width of the widest item being hauled.

(2) Weight, height, and length requirements.

(A) The permitted vehicle shall not exceed legal weight, height, or length according to Transportation Code, Chapter 621, Subchapters B and C.

(B) When multiple items are hauled at the same time, the items may not be loaded in a manner that creates:

(i) a height greater than 14 feet;

(ii) an overlength load; or

(iii) a gross weight exceeding the legal gross or axle weight of the vehicle hauling the load.

(3) Movement of overwidth trailers. When the permitted vehicle is an overwidth trailer, it will be allowed to:

(A) move empty to and from the job site; and

(B) haul a load from the permitted vehicle's point of origin to pick up a permitted load, and to the permitted vehicle's point of origin or the permittee's place of business after dropping off a permitted load, as long as:

(i) the load does not exceed legal size and weight limits under Transportation Code, Chapters 621 and 622; and

(ii) the transport complies with the permit, including the time period stated on the permit.

(4) Use in conjunction with other permits. An overwidth time permit may be used in conjunction with an overlength time permit.

(d) Overlength loads. An overlength time permit may be issued for the transportation of overlength loads or the movement of an overlength self-propelled vehicle, subject to subsection (a) of this section and the following conditions:

(1) Length requirements.

(A) The maximum overall length for the permitted vehicle may not exceed 110 feet.

(B) The department may issue a permit under Transportation Code, §623.071(a) for an overlength load or an overlength self-propelled vehicle that falls within the definition of a nondivisible load or vehicle.

(2) Weight, height and width requirements.

(A) The permitted vehicle may not exceed legal weight, height, or width according to Transportation Code, Chapter 621, Subchapters B and C.

(B) A permit will not be issued when the load has more than 25 feet front overhang, or more than 30 feet rear overhang.

(3) Use in conjunction with other permits. An overlength time permit may be used in conjunction with an overwidth time permit.

(4) Emergency movement. A permitted vehicle transporting utility poles will be allowed emergency night movement for restoring electrical utility service, provided the permitted vehicle is accompanied by a rear escort vehicle.

(e) Annual permits.

(1) General information. All permits issued under this subsection are subject to the following conditions.

(A) Fees for permits issued under this subsection are payable as described in §219.11(f).

(B) Permits issued under this subsection are not transferable.

(C) Vehicles permitted under this subsection shall be operated according to the restrictions described in §219.11(l). The permittee is responsible for obtaining information concerning current restrictions from the department.

(D) Vehicles permitted under this subsection may not travel over a load restricted bridge or load restricted road when exceeding the posted capacity of the road or bridge.

(E) Vehicles permitted under this subsection may travel through any highway construction or maintenance area provided the dimensions do not exceed the construction restrictions as published by the department.

(F) With the exception of permits issued under paragraph (5) of this subsection, vehicles permitted under this subsection

shall be operated according to the escort requirements described in §219.11(k).

(2) Implements of husbandry. An annual permit may be issued for an implement of husbandry being moved by a dealer in those implements, and for harvesting equipment being moved as part of an agricultural operation. Permits issued under this paragraph are subject to the conditions described in paragraph (1) of this subsection.

(A) The fee for a permit issued under this paragraph is \$270, plus the highway maintenance fee specified in Transportation Code, §623.077.

(B) The time period will be for one year and will start on the effective date stated on the permit.

(C) The maximum width may not exceed 16 feet; maximum height may not exceed 16 feet; maximum length may not exceed 110 feet; and maximum weight may not exceed the limits stated in §219.11(d).

(D) Unless stated otherwise on the permit, the permitted vehicle must travel in the outside traffic lane on multi-lane highways, when the width of the load exceeds 12 feet.

(E) The permitted vehicle must be registered in accordance with Transportation Code, Chapter 502, for maximum weight for the vehicle or vehicle combination, as set forth by Transportation Code, Chapter 621.

(3) Water well drilling machinery. The department may issue annual permits under Transportation Code, §623.071, for water well drilling machinery and equipment that fall within the definition of a nondivisible load or vehicle. Permits issued under this paragraph are subject to the conditions described in paragraph (1) of this subsection.

(A) The fee for a permit issued under this paragraph is \$270, plus the highway maintenance fee specified in Transportation Code, §623.077 for an overweight load.

(B) A water well drilling machinery permit is valid for one year from the effective date stated on the permit.

(C) The maximum dimensions may not exceed 16 feet wide, 14 feet 6 inches high, 110 feet long, and maximum weight may not exceed the limits stated in §219.11(d).

(D) The permitted vehicle must be registered in accordance with Transportation Code, Chapter 502, for the maximum weight of the vehicle, as set forth by Transportation Code, Chapter 621.

(E) A permit issued under this section authorizes a permitted vehicle to operate only on the state highway system.

(4) Envelope vehicle permits.

(A) The department may issue an annual permit under Transportation Code, §623.071(c), to a specific vehicle, for the movement of superheavy or oversize equipment that falls within the definition of a nondivisible load. This permit may not be used for a container, including a trailer or an intermodal container, loaded with divisible cargo. Unless otherwise noted, permits issued under this paragraph are subject to the conditions described in paragraph (1) of this subsection.

(i) Superheavy or oversize equipment operating under an annual envelope vehicle permit may not exceed:

(I) 12 feet in width;

(II) 14 feet in height;

(III) 110 feet in length; or

(IV) 120,000 pounds gross weight.

(ii) Superheavy or oversize equipment operating under an annual envelope vehicle permit may not transport a load that has more than 25 feet front overhang, or more than 30 feet rear overhang.

(iii) The fee for an annual envelope vehicle permit is \$4,000, and is non-refundable.

(iv) The time period will be for one year and will start on the effective date stated on the permit.

(v) This permit authorizes operation of the permitted vehicle only on the state highway system.

(vi) The permitted vehicle must comply with §219.11(d)(2) and (3).

(vii) The permitted vehicle or vehicle combination must be registered in accordance with Transportation Code, Chapter 502, for maximum weight as set forth by Transportation Code, Chapter 621.

(viii) A permit issued under this paragraph is non-transferable between permittees.

(ix) A permit issued under this paragraph may be transferred from one vehicle to another vehicle in the permittee's fleet provided:

(I) 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 certificate of title or other qualifying documentation has been surrendered to the department; or

(II) the certificate of title to the permitted vehicle is transferred to someone other than the permittee, and the permittee presents proof that the negotiable certificate of title or other qualifying documentation has been transferred from the permittee.

(x) A single-trip permit, as described in §219.12 of this title (relating to Single-Trip Permits Issued Under Transportation Code, Chapter 623, Subchapter D), may be used in conjunction with an annual permit issued under this paragraph for the movement of vehicles or loads exceeding the height or width limits established in subparagraph (A) of this paragraph. The department will indicate the annual permit number on any single-trip permit to be used in conjunction with a permit issued under this paragraph, and permittees will be assessed a fee of \$60 for the single-trip permit.

(B) The department may issue an annual permit under Transportation Code, §623.071(d), to a specific motor carrier, for the movement of superheavy or oversize equipment that falls within the definition of a nondivisible load. This permit may not be used for a container, including a trailer or an intermodal container, loaded with divisible cargo. Unless otherwise noted, permits issued under this paragraph are subject to the conditions described in paragraph (1) of this subsection and subparagraphs (A)(i)-(viii) of this paragraph. A permit issued under this paragraph may be transferred from one vehicle to another vehicle in the permittee's fleet provided:

(i) that no more than one vehicle is operated at a time; and

(ii) the original certified permit is carried in the vehicle that is being operated under the terms of the permit.

(C) An annual envelope permit issued under subparagraph (B) of this paragraph will be sent to the permittee via registered

mail, or at the permittee's request and expense overnight delivery service. This permit may not be duplicated. This permit will be replaced only if:

(i) the permittee did not receive the original permit within seven business days after its date of issuance;

(ii) a request for replacement is submitted to the department within 10 business days after the original permit's date of issuance; and

(iii) the request for replacement is accompanied by a notarized statement signed by a principle or officer of the permittee acknowledging that the permittee understands the permit may not be duplicated and that if the original permit is located, the permittee must return either the original or replacement permit to the department.

(D) A request for replacement of a permit issued under subparagraph (B) of this paragraph will be denied if the department can verify that the permittee received the original.

(E) Lost, misplaced, damaged, destroyed, or otherwise unusable permits will not be replaced. A new permit will be required.

(5) Annual manufactured housing permit. The department may issue an annual permit for the transportation of new manufactured homes from a manufacturing facility to a temporary storage location, not to exceed 20 miles from the point of manufacture, in accordance with Transportation Code, §623.094. Permits issued under this paragraph are subject to the requirements of paragraph (1), subparagraphs (A), (B), (C), (D), (E), and (G), of this subsection.

(A) A permit shall contain the name of the company or person authorized to be issued permits by Transportation Code, Chapter 623, Subchapter E.

(B) The fee for a permit issued under this paragraph is \$1,500. Fees are non-refundable, and shall be paid in accordance with §219.11(f).

(C) The time period will be for one year from the effective date stated on the permit.

(D) The permitted vehicle must travel in the outside traffic lane on multi-lane highways when the width of the load exceeds 12 feet.

(E) The permitted vehicle must be registered in accordance with Transportation Code, Chapter 502.

(F) Authorized movement for a vehicle permitted under this section shall be valid during daylight hours only as defined by Transportation Code, §541.401.

(G) The permitted vehicle must be operated in accordance with the escort requirements described in §219.14(f) of this title (relating to Manufactured Housing, and Industrialized Housing and Building Permits).

(H) Permits issued under this section are non-transferable between permittees.

(6) Power line poles. An annual permit will be issued under Transportation Code, Chapter 622, Subchapter E, for the movement of poles required for the maintenance of electric power transmission and distribution lines. Permits issued under this paragraph are subject to the conditions described in paragraph (1) of this subsection.

(A) The fee for the permit is \$120.

(B) The time period will be for one year and will start on the effective date stated on the permit.

(C) The maximum length of the permitted vehicle may not exceed 75 feet.

(D) The width, height and gross weight of the permitted vehicle may not exceed the limits set forth by Transportation Code, Chapter 621.

(E) Vehicles permitted under this paragraph may not travel over a load restricted bridge or load zoned road when exceeding posted limits.

(F) The permitted vehicle must be registered in accordance with Transportation Code, Chapter 502, for maximum weight as set forth by Transportation Code, Chapter 621.

(G) Movement will be between the hours of sunrise and sunset; however, the limitation on hours of operation does not apply to a vehicle being operated to prevent interruption or impairment of electric service, or to restore electric service that has been interrupted. When operated at night, a vehicle permitted under this subsection must be accompanied by a rear escort.

(H) The permitted vehicle may not travel during hazardous road conditions as stated in §219.11(l)(1)(A) and (B) except to prevent interruption or impairment of electric service, or to restore electric service that has been interrupted.

(I) The speed of the permitted vehicle may not exceed 50 miles per hour.

(J) The permitted vehicle must display on the extreme end of the load:

(i) two red lamps visible at a distance of at least 500 feet from the rear;

(ii) two red reflectors that indicate the maximum width and are visible, when light is insufficient or atmospheric conditions are unfavorable, at all distances from 100 to 600 feet from the rear when directly in front of lawful lower beams of headlamps; and

(iii) two red lamps, one on each side, that indicate the maximum overhang, and are visible at a distance of at least 500 feet from the side of the vehicle.

(7) Cylindrically shaped bales of hay. An annual permit may be issued under Transportation Code, §623.017, for the movement of vehicles transporting cylindrically shaped bales of hay. Permits issued under this paragraph are subject to the conditions described in paragraph (1) of this subsection.

(A) The permit fee is \$10.

(B) The time period will be for one year, and will start on the effective date stated on the permit.

(C) The maximum width of the permitted vehicle may not exceed 12 feet.

(D) The length, height, and gross weight of the permitted vehicle may not exceed the limits set forth by Transportation Code, Chapter 621.

(E) Movement is restricted to daylight hours only.

(F) The permitted vehicle must be registered in accordance with Transportation Code, Chapter 502, for maximum weight, as set forth by Transportation Code, Chapter 621.

(8) Overlength load or vehicles. An annual overlength permit may be issued for the transportation of a nondivisible overlength load or the movement of a nondivisible overlength vehicle or combination of vehicles under Transportation Code, §623.071(c-1). This permit

is subject to the portions of subsections (a), (b), and (d) of this section that are not limited to the fee or duration for the 30, 60, and 90 day permits.

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

43 TAC §219.31

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 duties of the department under the Transportation Code; and more specifically, Transportation Code, §§621.008, 622.002, and 623.002, which authorize the board to adopt rules that are necessary to implement and enforce Chapters 621, 622, and 623.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 621, 622, and 623.

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SUBCHAPTER D. PERMITS FOR OVERSIZE AND OVERWEIGHT OIL WELL RELATED VEHICLES

43 TAC §§219.41 - 219.43, 219.45

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 duties of the department under the Transportation Code; and more specifically, Transportation Code, §§621.008, 622.002, and 623.002, which authorize the board to adopt rules that are necessary to implement and enforce Chapters 621, 622, and 623.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 621, 622, and 623.

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

43 TAC §§219.61 - 219.63

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 duties of the department under the Transportation Code; and more specifically, Transportation Code, §§621.008, 622.002, and 623.002, which authorize the board to adopt rules that are necessary to implement and enforce Chapters 621, 622, and 623.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 621, 622, and 623.

§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 permitted under Transportation Code, Chapter 623, Subchapter J, must be registered under Transportation Code, Chapter 502, for the maximum gross weight applicable to the vehicle under Transportation Code, §621.101 or have the distinguishing license plates as provided by Transportation Code, §502.146 if applicable to the vehicle.

(4) 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.

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

(6) The permitted vehicle must not cross a load restricted bridge when exceeding the posted capacity of such.

(b) Maximum permit weight limits.

(1) The maximum permit weight for any single axle, not connected to another axle by a weight equalizing suspension system, 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) A crane that does not have any group of axles that exceeds the limits established in Figure 1: 43 TAC §219.62(f), "Maximum Permit Weight Table," and Figure 2: 43 TAC §219.62(f), "Maximum Permit Weight Formulas," will be permitted with a single-trip mileage permit or a quarterly hubometer permit for travel on any route that does not include a load restricted bridge.

(5) 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," will be eligible, on an individual case-by-case basis, for a single-trip mileage permit only. Permit approval or denial will be based on a detailed route study and an analysis conducted by TxDOT of each bridge on the proposed travel route to determine if the road(s) and bridges are capable of sustaining the movement.

(6) A road or bridge that has been analyzed and determined to be incapable of sustaining the crane will be excluded from the permit route.

(c) Permit application and issuance.

(1) Application for single-trip mileage permit.

(A) The applicant must submit the completed application to the department by telephone, facsimile, mail, or Internet. The application shall include, at a minimum, the following information:

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

(ii) origin and destination points of the crane;

(iii) make and model of the crane;

(iv) vehicle identification number of the crane;

(v) license plate number of the crane;

(vi) size and weight dimensions; and

(vii) any other information required by law.

(B) 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.

(2) Issuance of single-trip mileage permit. 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 if requested to do so.

(d) Permit fees and refunds.

(1) Minimum fee. The minimum fee for a single-trip 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 the indirect cost share.

(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 unit. 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.

(C) Indirect cost share. The indirect cost share is a prorated share of administering department activities, other than the direct cost of the activities, including the cost of providing statewide support services. The indirect cost share factor is based upon the previous year's expenditures.

(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.)

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SUBCHAPTER G. RECORDS AND INSPECTIONS

43 TAC §219.102

STATUTORY AUTHORITY

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CROSS REFERENCE TO STATUTE

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SUBCHAPTER H. ENFORCEMENT

43 TAC §219.121, §219.125

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CROSS REFERENCE TO STATUTE

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