

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

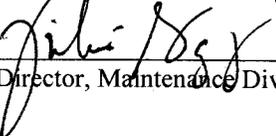
The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §§28.90 - 28.92, relating to Port of Brownsville Port Authority Permits to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §§28.90 - 28.92, are adopted and are authorized for filing with the Office of the Secretary of State.

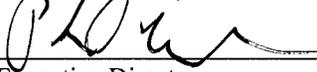
The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:



Director, Maintenance Division

Recommended by:



Executive Director

112932 DEC 15 11

Minute Number Date Passed

1 Adoption Preamble

2 The Texas Department of Transportation (department) adopts
3 amendments to §§28.90 - 28.92, concerning Port of Brownsville
4 Port Authority Permits. The amendments to §§28.90 - 28.92 are
5 adopted without changes to the proposed text as published in the
6 October 14, 2011 issue of the *Texas Register* (36 TexReg 6932)
7 and will not be republished.

8

9 EXPLANATION OF ADOPTED AMENDMENTS

10 The amendments grant the Port of Brownsville additional
11 authority to issue permits for the operation of overweight
12 vehicles on the designated highways within the port facilities.

13

14 Amendments to §28.90 add language to allow the Port of
15 Brownsville to issue permits for the operation of overweight
16 vehicles on State Highway 48/State Highway 4 past the entrance
17 of the Port of Brownsville to any location along State Highway
18 48 within the port facility. This will provide the Port of
19 Brownsville with the ability to extend its permitting process to
20 other businesses that are within the port area.

21

22 Amendments to §28.91 add language expanding the route for the
23 overweight permits to include any location along that highway
24 within the Port of Brownsville. State Highway 48 travels
25 through the Port of Brownsville and is parallel to the

1 Brownsville Ship Channel. The extension authorized by this
2 language change will allow the permits issued by the Port of
3 Brownsville to be used for travel within the port area along
4 State Highway 48. This will allow the Port to work on
5 permitting issues with additional businesses within the area.

6
7 The language in §28.91(h) is amended to accommodate the change
8 to the route in §28.91(g) by removing the reference to the
9 specific starting and ending points of the route. The new
10 language references the portions of the roadways for which the
11 Port of Brownsville may issue a permit. This change addresses
12 the current language revisions and will also be appropriate if
13 future revisions become necessary.

14
15 Amendments to §28.92 are made so that it is consistent with the
16 changes made to the route in §28.91. The changes to this
17 section authorize the appropriate route information to be
18 included on the permit application.

19

20 COMMENTS

21 No comments on the proposed amendments were received.

22

23 STATUTORY AUTHORITY

24 The amendments are adopted under Transportation Code, §201.101,
25 which provides the Texas Transportation Commission with the

1 authority to establish rules for the conduct of the work of the
2 department.

3

4 CROSS REFERENCE TO STATUTE

5 Transportation Code §§623.210-623.219.

1 SUBCHAPTER G. PORT OF BROWNSVILLE PORT AUTHORITY PERMITS

2 §28.90. Purpose. In accordance with Transportation Code,
3 Chapter 623, Subchapter K, the department may authorize the
4 Brownsville Navigation District of Cameron County, Texas (Port
5 of Brownsville) to issue permits for the movement of oversize or
6 overweight vehicles carrying cargo on State Highway 48/State
7 Highway 4 between the Gateway International Bridge and any
8 location along that highway within [~~the entrance to~~] the Port of
9 Brownsville, or on U.S. Highway 77/U.S. Highway 83 and State
10 Highway 48/State Highway 4 between the Veterans International
11 Bridge at Los Tomates and any location along that highway within
12 [~~the entrance to~~] the Port of Brownsville. This subchapter sets
13 forth the requirements and procedures applicable to the issuance
14 of permits by the Port of Brownsville for the movement of
15 oversize and overweight vehicles.

16

17 §28.91. Responsibilities.

18 (a) Surety bond. The department may require the Port of
19 Brownsville to post a surety bond in the amount of \$500,000 for
20 the purpose of reimbursing the department for actual maintenance
21 costs of State Highway 48/State Highway 4 and U.S. Highway
22 77/U.S. Highway 83 in the event that sufficient revenue is not
23 collected from permits issued under this subchapter.

1 (b) Verification of permits. All permits issued by the
2 Port of Brownsville shall be carried in the permitted vehicle.
3 The Port of Brownsville shall provide access for verification of
4 permit authenticity by law enforcement and department personnel.

5 (c) Training. The Port of Brownsville shall secure any
6 training necessary for personnel to issue permits under this
7 subchapter. The department may provide assistance with training
8 upon request by the Port of Brownsville.

9 (d) Accounting. The department shall develop accounting
10 procedures related to permits issued under this subchapter which
11 the Port of Brownsville must comply with for the purpose of
12 revenue collections and any payment made to the department under
13 subsection (h) of this section.

14 (e) Audits. The department may conduct audits annually or
15 upon direction by the executive director of all Port of
16 Brownsville permit issuance activities. In order to insure
17 compliance, audits will at a minimum include a review of all
18 permits issued, financial transaction records related to permit
19 issuance, review of vehicle scale weight tickets and monitoring
20 of personnel issuing permits under this subchapter.

21 (f) Revocation of authority to issue permits. If the
22 department determines as a result of an audit that the Port of
23 Brownsville is not complying with this subchapter, the executive

1 director will issue a notice to the Port of Brownsville allowing
2 30 days to correct any non-compliance issue. If after 30 days
3 it is determined that the Port of Brownsville is not in
4 compliance, then the executive director may revoke the Port of
5 Brownsville's authority to issue permits.

6 (1) Upon notification that its authority to issue permits
7 under this subchapter has been revoked, the Port of Brownsville
8 may appeal the revocation to the commission in writing.

9 (2) In cases where a revocation is being appealed, the
10 Port of Brownsville's authority to issue permits under this
11 subchapter shall remain in effect until the commission makes a
12 final decision regarding the appeal.

13 (3) Upon revocation of authority to issue permits,
14 termination of the maintenance contract, or expiration of this
15 subchapter, all permit fees collected by the port, less
16 allowable administrative costs, shall be paid to the department.

17 (g) Fees. Fees collected under this subchapter shall be
18 used solely to provide funds for the payments provided for under
19 Transportation Code, §623.213, less administrative costs.

20 (1) The permit fee shall not exceed \$80 per trip. The
21 Port of Brownsville may retain up to 15% of such permit fees for
22 administrative costs, and the balance of the permit fees shall
23 be deposited in the state highway fund to be used for

1 maintenance of State Highway 48/State Highway 4 and U.S. Highway
2 77/U.S. Highway 83.

3 (2) The Port of Brownsville may issue a permit and
4 collect a fee for a permit issued under this subchapter for any
5 vehicle or vehicle combination exceeding vehicle size or weight
6 as specified by Transportation Code, Chapter 621, Subchapters B
7 and C, originating at:

8 (A) the Gateway International Bridge traveling only on
9 State Highway 48/State Highway 4 to any location along that
10 highway within the Port of Brownsville;

11 (B) a location within the Port of Brownsville traveling
12 on State Highway 48/State Highway 4 to the Gateway International
13 Bridge;

14 (C) the Veterans International Bridge at Los Tomates,
15 traveling on U.S. Highway 77/U.S. Highway 83 and State Highway
16 48/State Highway 4 [~~to the entrance~~] to any location along that
17 highway within Port of Brownsville; or

18 (D) a location within the Port of Brownsville,
19 traveling on State Highway 48/State Highway 4 and U.S. Highway
20 77/U.S. Highway 83 to the Veterans International Bridge at Los
21 Tomates.

22 (h) Maintenance Contract. The Port of Brownsville shall
23 enter into a maintenance contract with the department for the

1 maintenance of the portions of State Highway 4, State Highway
2 48, and [~~State Highway 48/State Highway 4 between the Gateway~~
3 ~~International Bridge and the Port of Brownsville and the~~
4 ~~maintenance of~~] U.S. Highway 77/U.S. Highway 83 [~~and State~~
5 ~~Highway 48/State Highway 4] for which a permit may be issued
6 under this subchapter [~~between the Veterans International Bridge~~
7 ~~at Los Tomates and the Port of Brownsville)].~~~~

8 (1) Maintenance shall include, but is not limited to,
9 routine maintenance, preventive maintenance, and total
10 reconstruction of the roadway and bridge structures as
11 determined by the department to maintain the current level of
12 service.

13 (2) The Port of Brownsville may make direct restitution
14 to the department for actual maintenance costs in lieu of the
15 department filing against the surety bond described in
16 subsection (a) of this section, in the event that sufficient
17 revenue is not collected.

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

23

1 §28.92. Permit Issuance Requirements and Procedures.

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

5 (1) the name of the applicant;

6 (2) date of issuance;

7 (3) signature of the director of the Port of Brownsville;

8 (4) a statement of the kind of cargo being transported;

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

14 (6) the kind and weight of each commodity to be
15 transported, not to exceed loaded dimensions of 12' wide, 15'6"
16 high, 110' long or 125,000 pounds gross weight;

17 (7) a statement of any condition on which the permit is
18 issued;

19 (8) a statement that the cargo shall be transported over
20 the most direct route using State Highway 48/State Highway 4
21 between the Gateway International Bridge and any location along
22 that highway within the Port of Brownsville, or using U.S.
23 Highway 77/U.S. Highway 83 and State Highway 48/State Highway 4

1 between the Veterans International Bridge at Los Tomates and any
2 location along that highway within the Port of Brownsville;

3 (9) the location where the cargo was loaded; and

4 (10) the date or dates on which movement authorized by
5 the permit is allowed.

6 (b) Permit issuance.

7 (1) General.

8 (A) The original permit must be carried in the vehicle
9 for which it is issued.

10 (B) A permit is void when an applicant:

11 (i) gives false or incorrect information;

12 (ii) does not comply with the restrictions or
13 conditions stated in the permit; or

14 (iii) changes or alters the information on the
15 permit.

16 (C) A permittee may not transport an overdimension or
17 overweight load with a voided permit.

18 (2) Payment of permit fee. The Port of Brownsville may
19 determine acceptable methods of payment. All fees transmitted
20 to the department must be in U.S. currency.

21 (c) Maximum permit weight limits.

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

1 each axle in the group to achieve the maximum permit weight for
2 the group.

3 (2) Two or more consecutive axle groups must have an axle
4 spacing of 12 feet or greater, measured from the center of the
5 last axle of the preceding group to the center of the first axle
6 of the following group, in order for each group to be permitted
7 for maximum permit weight.

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

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

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

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

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

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

16 (F) trunnion axles -- 60,000 pounds if;

17 (i) the trunnion configuration has two axles;

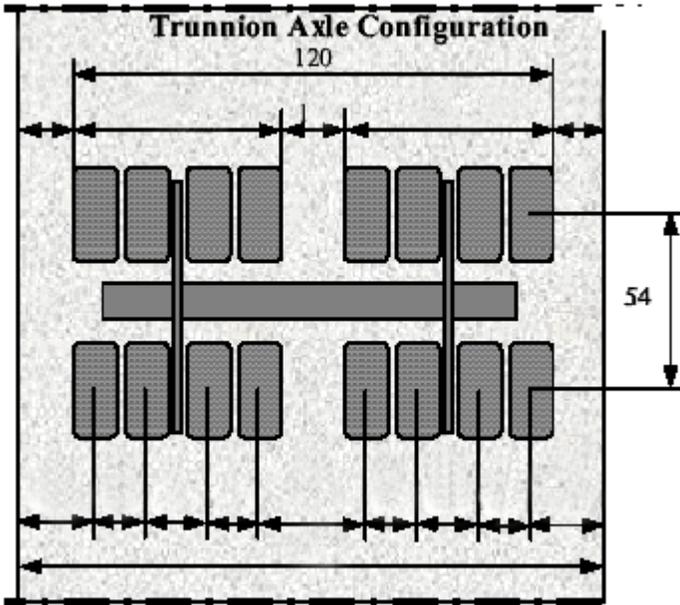
18 (ii) there are a total of 16 tires for a trunnion
19 configuration; and

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

22 Figure: 43 TAC §28.92(c)(3)(F)(iii)

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

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(d) Vehicles exceeding weight limits. Any vehicle exceeding weight limits outlined in subsection (c) of this section, shall apply directly to the department for an oversize or overweight permit in accordance with §28.11 of this chapter (relating to General Oversize/Overweight Permit Requirements and Procedures).

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(e) Registration. Any vehicle or combination of vehicles permitted under this subchapter shall be registered in accordance with Transportation Code, Chapter 502.

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(f) Travel conditions. Movement of a permitted vehicle is prohibited when visibility is reduced to less than 2/10 of one

1 mile or the road surface is hazardous due to weather conditions
2 such as rain, ice, sleet, or snow, or highway maintenance or
3 construction work.

4 (g) Daylight and night movement restrictions. An oversize
5 permitted vehicle may be moved only during daylight hours;
6 however, an overweight only permitted vehicle may be moved at
7 any time.

8 (h) Restrictions.

9 (1) Any vehicle issued a permit by the Port of
10 Brownsville must be weighed on scales capable of determining
11 gross vehicle weights and individual axle loads. For the
12 purpose of ensuring the accuracy of the permit, the scales must
13 be certified by the Texas Department of Agriculture or accepted
14 by the United Mexican States.

15 (2) A valid permit and certified weight ticket must be
16 presented to the gate authorities before the permitted vehicle
17 shall be allowed to exit or enter the port.

18 (3) The owner of a vehicle permitted under this
19 subchapter must be registered as a motor carrier in accordance
20 with Transportation Code, Chapters 643 or 645, prior to the
21 oversize or overweight permit being issued. The Port of
22 Brownsville shall maintain records relative to this subchapter,
23 which are subject to audit by department personnel.

1 (4) Permits issued by the Port of Brownsville shall be in
2 a form prescribed by the department.

3 (5) The maximum speed for a permitted vehicle shall be 55
4 miles per hour or the posted maximum, whichever is less.