

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

Page 1 of 1

ALL Districts

The Texas Transportation Commission (commission) finds it necessary to propose the repeal of §§28.80 - 28.82, §§28.90 - 28.92, and §§28.100 - 28.102 and simultaneously propose new §§28.1 - 28.3, §§28.10 - 28.12, §§28.20 - 28.22, and §§28.30 - 28.32, all relating to Oversize and Overweight Vehicles and Loads to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble, proposed repeals, and new sections, attached to this minute order as Exhibits A - F, 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 repeal of §§28.80 - 28.82, §§28.90 - 28.92, and §§28.100 - 28.102 and new §§28.1 - 28.3, §§28.10 - 28.12, §§28.20 - 28.22, §§28.30 - 28.32, are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

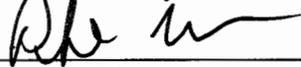
The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:



General Counsel

Recommended by:



Executive Director

113087 APR 26 12

Minute Date
Number Passed

Proposed Preamble

The Texas Department of Transportation (department) proposes the repeal of §§28.80 - 28.82, 28.90 - 28.92, and 28.100 - 28.102 and simultaneously proposes new Subchapter A, General Provisions, §§28.1 and 28.2; new Subchapter B, Highway Crossings by Oversize and Overweight Vehicles and Loads, §§28.10 - 28.12; new Subchapter C, Port of Brownsville Permits, §§28.20 - 28.22; and new Subchapter D, Chambers County Permits, §§28.30 - 28.33, all concerning Oversize and Overweight Vehicles and Loads.

EXPLANATION OF PROPOSED REPEALS AND NEW SECTIONS

In accordance with statutory changes made by the 82nd Legislature, Regular Session, 2011, the department transferred to the Texas Department of Motor Vehicles (DMV) a majority of the oversize and overweight permitting responsibilities on January 1, 2012. Accordingly, 43 TAC Chapter 28, Subchapters A - E and I - K were transferred to the DMV and became 43 TAC Chapter 219. The rules that did not transfer are Subchapters F, Crossings by Oversize and Overweight Vehicles and Loads, G, Port of Brownsville Port Authority Permits, and H, Chambers County Permits. These amendments reorganize Chapter 28 by repealing those subchapters and adding a new Subchapter A, which contains general provisions, and new Subchapters B, C, and D, which contain the substance of current Subchapters F - H.

1 New §28.1, Purpose, explains the purpose of the oversize and
2 overweight rules that remain with the department. This section
3 identifies the oversize and overweight programs that are
4 administered by the department and provides the statutory
5 authority for these programs.

6
7 New §28.2, Definitions, contains the definitions from former
8 §28.2, which was transferred to the rules of the DMV, that are
9 now necessary for the terms used in the new subchapters. No new
10 definitions are added, however, many definitions that were in
11 the former section have been omitted because they are not used
12 in reorganized Chapter 28.

13
14 New §28.3, Delegation Authority, authorizes the executive
15 director to delegate the powers and duties provided under
16 Chapter 28 to a department employee who is not below the level
17 of division director. This authority was provided in the
18 definition of "director" in the transferred rules. In the new
19 sections the term "executive director" is used instead of
20 "director" and the definition is deleted as unnecessary.

21
22 New Subchapter B, Crossings by Oversize and Overweight Vehicles
23 and Loads, (§§28.10 - 28.12) replaces current Subchapter F,
24 Crossings by Oversize and Overweight Vehicles and Loads, with no
25 substantive changes. The only changes are that the sections

1 have been renumbered to fit the new structure of the chapter.

2

3 New Subchapter C, Port of Brownsville Permits, (§§28.20 - 28.22)
4 replaces current Subchapter G, Port of Brownsville Port
5 Authority Permits, with two substantive changes. In §28.21 a
6 new subsection (a) is added relating to the authority to issue
7 permits in order to be consistent with new §28.31 regarding the
8 authority of Chambers County to issue permits. Subsection (a)
9 expressly provides that the commission has granted the Port of
10 Brownsville the authority necessary to issue oversize and
11 overweight permits for operation within the port facility. This
12 additional language does not affect the current agreement with
13 the Port of Brownsville.

14

15 The second change is in new §28.22. Subsection (d) clarifies
16 that the DMV is the agency that issues general oversize and
17 overweight permits. This change is needed because of the
18 statutory transfer of general permitting responsibilities.

19

20 New Subchapter D, Chambers County Permits, (§§28.30 - 28.32)
21 replaces current Subchapter H, Chambers County Permits, with
22 changes in new §28.32 to make the subchapter consistent with new
23 Subchapter C, Port of Brownsville Permits. In subsection (a)
24 the term "permit contents" is changed to "permit application."
25 In subsection (b), the term "permit use and validity" is changed

1 to "permit issuance." Finally, subsection (d) clarifies that
2 the DMV is the agency that issues general oversize and
3 overweight permits and is necessary because of the statutory
4 transfer of general permitting responsibilities. These minor
5 changes make the language consistent between these two optional
6 permitting programs.

7

8 FISCAL NOTE

9 James Bass, Chief Financial Officer, has determined that for
10 each of the first five years in which the repeals and new
11 sections as proposed are in effect, there will be no fiscal
12 implications for state or local governments as a result of
13 enforcing or administering the repeals and new sections.

14

15 Bob Jackson, General Counsel, has certified that there will be
16 no significant impact on local economies or overall employment
17 as a result of enforcing or administering the repeals and new
18 sections.

19

20 PUBLIC BENEFIT AND COST

21 Mr. Jackson has also determined that for each year of the first
22 five years in which the sections are in effect, the public
23 benefit anticipated as a result of enforcing or administering
24 the repeals and new sections will be clear division of
25 responsibilities between the department and the Texas Department

1 of Motor Vehicles. There are no anticipated economic costs for
2 persons required to comply with the sections as proposed. There
3 will be no adverse economic effect on small businesses.

4

5 SUBMITTAL OF COMMENTS

6 Written comments on the proposed repeal of §§28.80 - 28.82,
7 28.90 - 28.92, and 28.100 - 28.102 and new §§28.1, 28.2, 28.10 -
8 28.12, 28.20 - 28.22, and 28.30 - 28.32 may be submitted to Bob
9 Jackson, General Counsel, Texas Department of Transportation,
10 125 East 11th Street, Austin, Texas 78701-2483. The deadline
11 for receipt of comments is 5:00 p.m. on June 11, 2012. In
12 accordance with Transportation Code, §201.810(a)(5), a person
13 who submits comments must disclose, in writing with the
14 comments, whether the person does business with the department,
15 may benefit monetarily from the proposed repeals and new
16 sections, or is an employee of the department.

17

18 STATUTORY AUTHORITY

19 The repeals and new sections are proposed under Transportation
20 Code, §201.101, which provides the Texas Transportation
21 Commission (commission) with the authority to establish rules
22 for the conduct of the work of the department, and more
23 specifically, Transportation Code, §623.051, which provides the
24 commission with the authority to establish rules for the
25 issuance of crossing agreements; Transportation Code, §623.212,

1 which allows the commission to authorize the Port of Brownsville
2 to issue permits for the movement of oversize or overweight
3 vehicles; and Transportation Code, §623.259, which provides the
4 commission with the authority to establish rules for issuance of
5 Chambers County Permits.

6

7 CROSS REFERENCE TO STATUTE

8 Transportation Code, §623.051, and Transportation Code, Chapter
9 623, Subchapters K and M.

1 SUBCHAPTER A. GENERAL PROVISIONS

2 §28.1. Purpose and Scope. The department participates in the
3 regulation of the movement of oversize and overweight vehicles
4 and loads on the state highway system, in order to insure the
5 safety of the traveling public, and to protect the integrity of
6 the highways and the bridges. The department's responsibilities
7 are accomplished through the authorization of the issuance of
8 permits for the movement of oversize and overweight vehicles and
9 loads by certain authorities, and the execution of special
10 contracts for the movement of oversize and overweight vehicles
11 and loads to travel across the width of a state highway. The
12 sections under this chapter prescribe the policies and
13 procedures for authorizing the issuance of permits and the
14 execution of contracts.

15
16 §28.2. Definitions. The following words and terms, when used
17 in this chapter, will have the following meanings, unless the
18 context clearly indicates otherwise.

19 (1) Axle--The common axis of rotation of one or more
20 wheels whether power-driven or freely rotating, and whether in
21 one or more segments.

22 (2) Axle group--An assemblage of two or more consecutive
23 axles, with two or more wheels per axle, spaced at least 40

1 inches from center of axle to center of axle, equipped with a
2 weight-equalizing suspension system that will not allow more
3 than a 10% weight difference between any two axles in the group.

4 (3) Commission--The Texas Transportation Commission.

5 (4) Daylight--The period beginning one-half hour before
6 sunrise and ending one-half hour after sunset.

7 (5) Department--The Texas Department of Transportation.

8 (6) Four-axle group--Any four consecutive axles, having
9 at least 40 inches from center of axle to center of axle, whose
10 extreme centers are not more than 192 inches apart and are
11 individually attached to or articulated from, or both, to the
12 vehicle by a weight equalizing suspension system.

13 (7) Gross weight--The unladen weight of a vehicle or
14 combination of vehicles plus the weight of the load being
15 transported.

16 (8) Motor carrier--A person that controls, operates, or
17 directs the operation of one or more vehicles that transport
18 persons or cargo over a public highway in this state.

19 (9) Overweight--An overdimension load that exceeds the
20 maximum weight specified in Transportation Code, §621.101.

21 (10) Permitted vehicle--A vehicle, combination of
22 vehicles, or vehicle and its load operating under the provisions
23 of a permit.

1 (11) Permittee--Any person, firm, or corporation that is
2 issued an oversize/overweight permit or temporary vehicle
3 registration by the MCD.

4 (12) Single axle--An assembly of two or more wheels whose
5 centers are in one transverse vertical plane or may be included
6 between two parallel transverse planes 40 inches apart extending
7 across the full width of the vehicle.

8 (13) State highway--A highway or road under the
9 jurisdiction of the Texas Department of Transportation.

10 (14) State highway system--A network of roads and
11 highways as defined by Transportation Code, §221.001.

12 (15) Surety bond--An agreement issued by a surety bond
13 company to a principal that pledges to compensate the department
14 for any damage that might be sustained to the highways and
15 bridges by virtue of the operation of the equipment for which a
16 permit was issued. A surety bond is effective the day it is
17 issued and expires at the end of the state fiscal year, which is
18 August 31st. For example, if you obtain a surety bond on August
19 30th, it will expire the next day at midnight.

20 (16) Three-axle group--Any three consecutive axles,
21 having at least 40 inches from center of axle to center of axle,
22 whose extreme centers are not more than 144 inches apart, and
23 are individually attached to or articulated from, or both, to

1 the vehicle by a weight equalizing suspension system.

2 (17) Trunnion axle--Two individual axles mounted in the
3 same transverse plane, with four tires on each axle, that are
4 connected to a pivoting wrist pin that allows each individual
5 axle to oscillate in a vertical plane to provide for constant
6 and equal weight distribution on each individual axle at all
7 times during movement.

8 (18) Two-axle group--Any two consecutive axles whose
9 centers are at least 40 inches but not more than 96 inches apart
10 and are individually attached to or articulated from, or both,
11 to the vehicle by a weight equalizing suspension system.

12 (19) Vehicle--Every device in or by which any person or
13 property is or may be transported or drawn upon a public
14 highway, except devices used exclusively upon stationary rails
15 or tracks.

16

17 §28.3. Delegation Authority. The executive director may
18 delegate to a department employee in a position that is not
19 below the level of division director any power or duty assigned
20 to the executive director by this chapter.

1 SUBCHAPTER B. HIGHWAY CROSSINGS BY OVERSIZE
2 AND OVERWEIGHT VEHICLES AND LOADS

3 §28.10. Purpose. In accordance with Transportation Code,
4 Chapter 623, Subchapter C, a person, firm, or corporation may
5 request authorization to operate a vehicle that does not comply
6 with one or more of the restrictions of Transportation Code,
7 Chapter 621, across the width of any road in the state highway
8 system, other than a controlled-access highway as defined in
9 Transportation Code, §223.001, from private property to other
10 private property provided that the commission has contracted
11 with the requester to indemnify the department for the cost of
12 repair and maintenance to the portion of such highway crossed by
13 such vehicles.

14
15 §28.11. Surety Bond. The requester shall, prior to exercising
16 any rights thereunder, execute an adequate surety bond in such
17 amount as may be determined by the commission to compensate for
18 the cost of maintenance and repairs as provided herein, approved
19 by the state treasurer and the attorney general, with a
20 corporate surety authorized to do business in this state,
21 conditioned on the requester fulfilling the obligations of the
22 contract.

1 §28.12. Preparation of Contract.

2 (a) The department will contract with the requester to
3 indemnify the state for the cost of maintenance or repair to
4 that portion of the highway crossed by vehicles which cannot
5 comply with one or more restrictions of Transportation Code,
6 Chapter 621.

7 (b) The department will, at the expense of the requester,
8 periodically maintain and repair the vehicle crossing in
9 accordance with established departmental regulations,
10 specifications, and engineering standards and practices.

11 (c) If the proposed vehicle crossing requires initial
12 upgrading or reconstruction to safely and adequately accommodate
13 the vehicles which will be using the highway crossing, the
14 requester will bear the entire cost of such work. Construction
15 plans, specifications, traffic control plans, and any other
16 related work will be provided by the requester at no cost to the
17 state. At the sole option of the department, it may elect to do
18 this work or provide for this work by separate contract, with
19 the requester bearing the entire cost.

20 (d) The requester will be responsible for furnishing,
21 installing, maintaining, and removing when no longer required
22 all traffic control devices which are required at the crossing
23 to insure the safety of the traveling public. At the sole

1 option of the department, it may elect to do this work or
2 provide for this work by separate contract, with the requester
3 bearing the entire cost. All traffic-control devices and
4 flaggers, if required, shall be in accordance with the Texas
5 Manual on Uniform Traffic Control Devices.

6 (e) The requester shall indemnify the department for the
7 cost of maintenance and repair to the vehicle crossing. The
8 requester shall, at the entire expense of the requester, provide
9 and keep in force a surety bond in an amount determined by the
10 state to cover the cost of such maintenance and repair. The
11 bond will require approval by the attorney general and
12 comptroller of public accounts.

13 (f) The requester shall keep the roadway free of debris and
14 objectionable dust, lights, or noise.

15 (g) The requester shall provide the department with the
16 department's certificate of insurance covering the latest
17 insurance requirements for contractors doing state highway
18 construction work.

19 (h) The responsibilities of the requester as set forth in
20 the contract shall not be transferred, assigned, or conveyed to
21 a third party without approval of the department.

22 (i) If, in the sole judgment of the department, it is
23 determined at a future date that traffic conditions have so

1 changed that the existence or use of the vehicle crossing is
2 impeding maintenance, damaging the highway facility, impairing
3 safety, or that the vehicle crossing is not being properly
4 operated, or that it constitutes a nuisance, or if for any other
5 reason it is in the department's judgment that such a facility
6 is not in the public interest, the vehicle crossing shall be
7 modified if corrective measures acceptable to both the
8 department and the requester can be applied to eliminate the
9 objectionable features of the facility or terminated and the use
10 of the area as a vehicle crossing discontinued.

11 (j) Upon termination of the contract the department shall
12 make an inspection of the crossing site. If additional repairs,
13 modifications, or rehabilitation is required to return the
14 highway to its original condition, the requester shall bear the
15 entire expense of such work.

1 SUBCHAPTER C. PORT OF BROWNSVILLE PERMITS

2 §28.20. 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 Port of Brownsville, or
9 on U.S. Highway 77/U.S. Highway 83 and State Highway 48/State
10 Highway 4 between the Veterans International Bridge at Los
11 Tomates and any location along that highway within the Port of
12 Brownsville. This subchapter sets forth the requirements and
13 procedures applicable to the issuance of permits by the Port of
14 Brownsville for the movement of oversize and overweight
15 vehicles.

16
17 §28.21. Responsibilities.

18 (a) Authority to issue permits. The Port of Brownsville
19 may issue a permit for travel on the roads designated by
20 Transportation Code, §623.219(a) by a vehicle or vehicle
21 combination that exceeds the vehicle size or weight limits
22 specified by Transportation Code, Chapter 621, Subchapters B and
23 C but does not exceed loaded dimensions of 12 feet wide, 16 feet

1 high, or 110 feet long, or 125,000 pounds gross weight for.

2 (b) Surety bond. The department may require the Port of
3 Brownsville to post a surety bond in the amount of \$500,000 for
4 the purpose of reimbursing the department for actual maintenance
5 costs of State Highway 48/State Highway 4 and U.S. Highway
6 77/U.S. Highway 83 in the event that sufficient revenue is not
7 collected from permits issued under this subchapter.

8 (c) Verification of permits. All permits issued by the
9 Port of Brownsville shall be carried in the permitted vehicle.
10 The Port of Brownsville shall provide access for verification of
11 permit authenticity by law enforcement and department personnel.

12 (d) Training. The Port of Brownsville shall secure any
13 training necessary for personnel to issue permits under this
14 subchapter. The department may provide assistance with training
15 upon request by the Port of Brownsville.

16 (e) Accounting. The department shall develop accounting
17 procedures related to permits issued under this subchapter which
18 the Port of Brownsville must comply with for the purpose of
19 revenue collections and any payment made to the department under
20 subsection (i) of this section.

21 (f) Audits. The department may conduct audits annually or
22 upon direction by the executive director of all Port of
23 Brownsville permit issuance activities. In order to insure

1 compliance, audits will at a minimum include a review of all
2 permits issued, financial transaction records related to permit
3 issuance, review of vehicle scale weight tickets and monitoring
4 of personnel issuing permits under this subchapter.

5 (g) Revocation of authority to issue permits. If the
6 department determines as a result of an audit that the Port of
7 Brownsville is not complying with this subchapter, the executive
8 director will issue a notice to the Port of Brownsville allowing
9 30 days to correct any non-compliance issue. If after 30 days
10 it is determined that the Port of Brownsville is not in
11 compliance, then the executive director may revoke the Port of
12 Brownsville's authority to issue permits.

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

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

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

1 (h) Fees. Fees collected under this subchapter shall be
2 used solely to provide funds for the payments provided for under
3 Transportation Code, §623.213, less administrative costs.

4 (1) The permit fee shall not exceed \$80 per trip. The
5 Port of Brownsville may retain up to 15 percent of such permit
6 fees for administrative costs, and the balance of the permit
7 fees shall be deposited in the state highway fund to be used for
8 maintenance of State Highway 48/State Highway 4 and U.S. Highway
9 77/U.S. Highway 83.

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

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

18 (B) a location within the Port of Brownsville traveling
19 on State Highway 48/State Highway 4 to the Gateway International
20 Bridge;

21 (C) the Veterans International Bridge at Los Tomates,
22 traveling on U.S. Highway 77/U.S. Highway 83 and State Highway
23 48/State Highway 4 to any location along that highway within

1 Port of Brownsville; or

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

6 (i) Maintenance Contract. The Port of Brownsville shall
7 enter into a maintenance contract with the department for the
8 maintenance of the portions of State Highway 4, State Highway
9 48, and U.S. Highway 77/U.S. Highway 83 for which a permit may
10 be issued under this subchapter.

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

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

21 (j) Reporting. Port of Brownsville shall provide monthly
22 and annual reports to the department's Finance Division
23 regarding all permits issued and all fees collected during the

1 period covered by the report. The report must be in a format
2 approved by the department.

3

4 §28.22. Permit Issuance Requirements and Procedures.

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

8 (1) the name of the applicant;

9 (2) date of issuance;

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

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

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

17 (6) the kind and weight of each commodity to be
18 transported, not to exceed loaded dimensions of 12 feet wide, 15
19 feet 6 inches high, 110 feet long or 125,000 pounds gross
20 weight;

21 (7) a statement of any condition on which the permit is
22 issued;

23 (8) a statement that the cargo shall be transported over

1 the most direct route using State Highway 48/State Highway 4
2 between the Gateway International Bridge and any location along
3 that highway within the Port of Brownsville, or using U.S.
4 Highway 77/U.S. Highway 83 and State Highway 48/State Highway 4
5 between the Veterans International Bridge at Los Tomates and any
6 location along that highway within the Port of Brownsville;

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

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

10 (b) Permit issuance.

11 (1) General.

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

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

15 (i) gives false or incorrect information;

16 (ii) does not comply with the restrictions or
17 conditions stated in the permit; or

18 (iii) changes or alters the information on the
19 permit.

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

22 (2) Payment of permit fee. The Port of Brownsville may
23 determine acceptable methods of payment. All fees transmitted

1 to the department must be in U.S. currency.

2 (c) Maximum permit weight limits.

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

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

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

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

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

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

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

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

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

21 (i) the trunnion configuration has two axles;

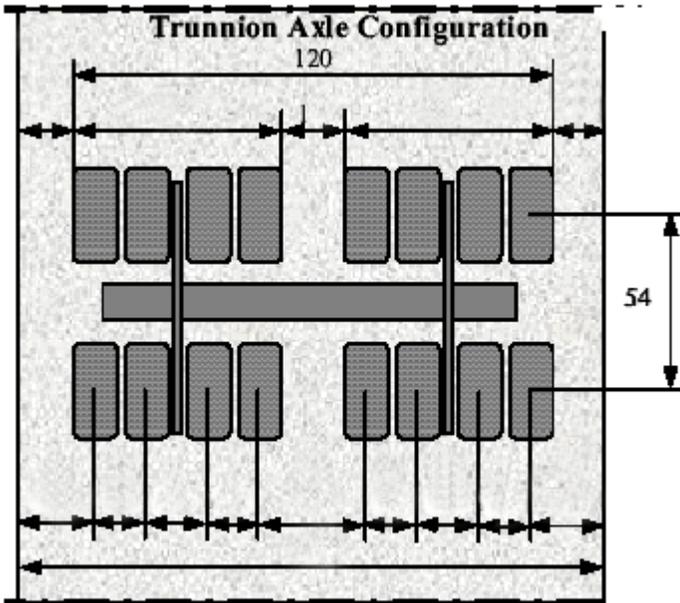
22 (ii) there are a total of 16 tires for a trunnion

23 configuration; and

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

3 Figure: 43 TAC §28.12(c)(3)(F)(iii)

4



5
6

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

8 (d) Vehicles exceeding weight limits. Any vehicle
9 exceeding weight limits outlined in subsection (c) of this
10 section, shall apply directly to the Texas Department of Motor
11 Vehicles for an oversize or overweight permit in accordance
12 Transportation Code, Chapter 623.

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

1 (f) Travel conditions. Movement of a permitted vehicle is
2 prohibited when visibility is reduced to less than 2/10 of one
3 mile or the road surface is hazardous due to weather conditions
4 such as rain, ice, sleet, or snow, or highway maintenance or
5 construction work.

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

10 (h) Restrictions.

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

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

20 (3) The owner of a vehicle permitted under this
21 subchapter must be registered as a motor carrier in accordance
22 with Transportation Code, Chapters 643 or 645, prior to the
23 oversize or overweight permit being issued. The Port of

1 Brownsville shall maintain records relative to this subchapter,
2 which are subject to audit by department personnel.

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

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

1 SUBCHAPTER D. CHAMBERS COUNTY PERMITS

2 §28.30. Purpose. In accordance with Transportation Code,
3 Chapter 623, Subchapter M, the commission may authorize Chambers
4 County, Texas to issue permits for the movement of oversize and
5 overweight vehicles and loads on the roads designated by
6 Transportation Code, §623.252(b)(1). This subchapter sets forth
7 the requirements and applicable procedures for the issuance of
8 permits by Chambers County for the movement of oversize and
9 overweight vehicles.

10

11 §28.31. Responsibilities.

12 (a) Authority to issue permits. Chambers County may issue
13 a permit for a vehicle or vehicle combination that exceeds the
14 vehicle size or weight limits specified by Transportation Code,
15 Chapter 621, Subchapters B and C but does not exceed loaded
16 dimensions of 12 feet wide, 16 feet high, or 110 feet long, or
17 100,000 pounds gross weight for travel on the roads designated
18 by Transportation Code, §623.252(b)(1).

19 (b) Permit fees and administrative costs. Chambers County
20 shall collect a fee for each permit issued under this
21 subchapter. The permit fee may not exceed \$80 per trip.
22 Chambers County may retain an amount up to 15 percent of each
23 permit fee to cover costs of administering the program. The

1 permit fee and administration costs shall be established by the
2 agreement between the department and Chambers County. Chambers
3 County shall deposit the permit fees collected, less
4 administrative cost amounts authorized, in the State Highway
5 Fund. The department will use those amounts for the maintenance
6 and improvement of the roads designated by Transportation Code,
7 §623.252(b)(1).

8 (c) Surety bond. The department may require Chambers
9 County to post a surety bond in the amount of \$500,000 for the
10 purpose of reimbursing the department the amount equal to the
11 actual maintenance costs of roads designated by Transportation
12 Code, §623.252(b)(1) less the amount that Chambers County
13 deposits in the State Highway Fund under subsection (b) of this
14 section.

15 (d) Verification of permits. All permits issued by
16 Chambers County shall be carried in the permitted vehicle.
17 Chambers County shall provide access for verification of permit
18 authenticity by law enforcement and department personnel.

19 (e) Training. Chambers County shall secure any training
20 necessary for personnel to issue permits under this subchapter.
21 The department may provide assistance with training upon request
22 by Chambers County.

23 (f) Accounting. The department shall develop accounting

1 procedures related to permits issued under this subchapter.
2 Chambers County shall comply with those accounting procedures
3 for the purpose of revenue collections and any payment made to
4 the department under subsection (i) of this section.

5 (g) Audits. The department may conduct annual audits of
6 all Chambers County permit activities or upon direction by the
7 executive director. In order to insure compliance, audits will
8 at a minimum include a review of all permits issued, financial
9 transaction records related to permit issuance, review of
10 vehicle scale weight tickets, and monitoring of personnel
11 issuing permits under this subchapter.

12 (h) Revocation of authority to issue permits. If the
13 department determines as a result of an audit that Chambers
14 County is not complying with this subchapter, the executive
15 director will issue a notice to Chambers County allowing 30 days
16 to correct any non-compliance issue. If after 30 days it is
17 determined that Chambers County is not in compliance, then the
18 executive director may revoke Chambers County's authority to
19 issue permits.

20 (1) Upon notification that its authority to issue permits
21 under this subchapter has been revoked, Chambers County may
22 appeal the revocation to the commission in writing.

23 (2) In cases where a revocation is being appealed,

1 Chambers County's authority to issue permits under this
2 subchapter shall remain in effect until the commission makes a
3 final decision regarding the appeal.

4 (3) Upon revocation of authority to issue permits,
5 termination of the maintenance contract, or expiration of this
6 subchapter, all permit fees collected by Chambers County, less
7 allowable administrative costs, shall be paid to the department.

8 (i) Maintenance payments. If Chambers County does not
9 deposit in the State Highway Fund under subsection (b) of this
10 section sufficient amounts to reimburse the department for the
11 payment of the costs of maintenance of the highways that are
12 designated by Transportation Code, §623.252(b)(1), Chambers
13 County may pay the deficiency in lieu of the department's filing
14 against the surety bond provided under subsection (c) of this
15 section for that amount. Maintenance includes routine
16 maintenance, preventive maintenance, and total reconstruction of
17 the roadway and bridge structures as determined by the
18 department to maintain the current level of service.

19 (j) Reporting. Chambers County shall provide monthly and
20 annual reports to the department's Finance Division regarding
21 all permits issued and fees collected. The report must be in a
22 format approved by the department.

23

1 §28.32. Permit Issuance Requirements and Procedures.

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

5 (1) the name of the applicant;

6 (2) date of issuance;

7 (3) signature of the designated agent of Chambers County;

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

13 (5) a statement of the kind and weight of each commodity
14 to be transported, not to exceed loaded dimensions of 12 feet
15 wide, 16 feet high, or 110 feet long, or 100,000 pounds gross
16 weight;

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

19 (7) a statement that the cargo may be transported in
20 Chambers County only over the roads that are described by
21 Transportation Code, §623.652(b)(1);

22 (8) the location where the cargo was loaded; and

23 (9) the date or dates on which movement authorized by the

1 permit is allowed.

2 (b) Permit issuance.

3 (1) General.

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

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

7 (i) gives false or incorrect information;

8 (ii) does not comply with the restrictions or
9 conditions stated in the permit; or

10 (iii) changes or alters the information on the
11 permit.

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

14 (2) Payment of permit fee. Chambers County may determine
15 acceptable methods of payment. All fees transmitted to the
16 department must be in U.S. currency.

17 (c) Maximum permit weight limits.

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

22 (2) Two or more consecutive axle groups must have an axle
23 spacing of 12 feet or greater, measured from the center of the

1 last axle of the preceding group to the center of the first axle
2 of the following group, in order for each group to be permitted
3 for maximum permit weight.

4 (3) Maximum permit weight for an axle or axle group is
5 based on 650 pounds per inch of tire width or the following axle
6 or axle group weights, whichever is the lesser amount;

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

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

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

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

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

12 (F) trunnion axles--60,000 pounds if:

13 (i) the trunnion configuration has two axles;

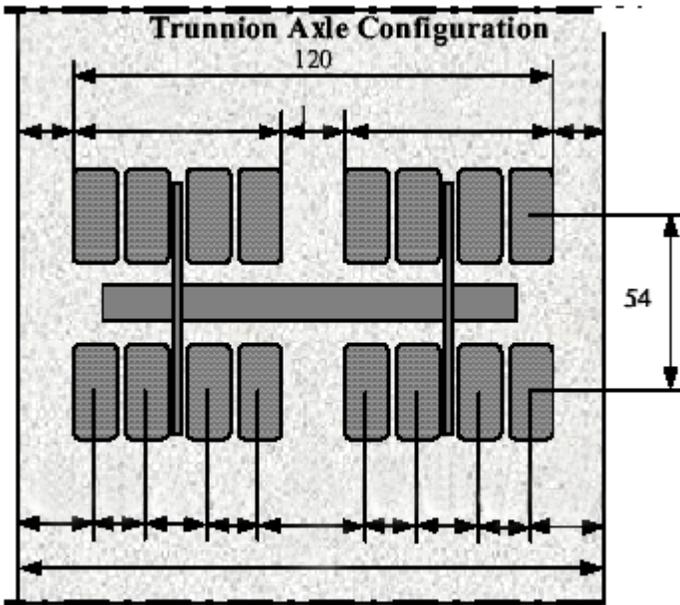
14 (ii) there are a total of 16 tires for a trunnion
15 configuration; and

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

18

1 Figure: 43 TAC §28.22(c)(3)(F)(iii)

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5

(4) A permit issued under this subchapter does not

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authorize the vehicle to exceed manufacturer's tire load rating.

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(d) Vehicles exceeding weight limits. Any vehicle

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exceeding weight limits outlined in subsection (c) of this

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section, shall apply directly to the Texas Department of Motor

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Vehicles for an oversize or overweight permit in accordance with

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Transportation Code, Chapter 623.

12

(e) Registration. Any vehicle or combination of vehicles

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permitted under this subchapter shall be registered in

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accordance with Transportation Code, Chapter 502.

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(f) Travel conditions. Movement of a permitted vehicle is

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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 Chambers County must
10 be weighed on scales capable of determining permitted loaded
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.

14 (2) A copy of the certified weight ticket shall be
15 retained by Chambers County and become a part of the official
16 permit record subject to inspection by department personnel or
17 Texas Department of Public Safety personnel.

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.

22 (4) Permits issued by Chambers County shall be in a form
23 prescribed by the department.

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

3 (i) Records. Chambers County shall maintain records
4 relative to this subchapter, which are subject to audit by
5 department personnel.

6 (j) Issuing entity. A motor carrier transporting loads
7 that fall within the size and weight limits of §28.101 of this
8 subchapter (relating to Responsibilities) on trips originating
9 and terminating within the Cedar Crossing Business Park using a
10 road designated by Transportation Code, §623.252(b)(1) must
11 obtain a permit from Chambers County.

1 SUBCHAPTER F. HIGHWAY CROSSINGS BY OVERSIZE AND
2 OVERWEIGHT VEHICLES AND LOADS

3 §28.80. Purpose

4 §28.81. Surety Bond

5 §28.82. Preparation of Contract

6

7 SUBCHAPTER G. PORT OF BROWNSVILLE PORT AUTHORITY PERMITS

8

9 §28.90. Purpose

10 §28.91. Responsibilities

11 §28.92. Permit Issuance Requirements and Procedures

12

13 SUBCHAPTER H. CHAMBERS COUNTY PERMITS

14

15 §28.100. Purpose

16 §28.101. Responsibilities

17 §28.102. Permit Issuance Requirements and Procedures