

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

Page 1 of 1

ALL Districts

The Texas Transportation Commission (commission) finds it necessary to adopt the repeal of §3.20 and §3.25, amendments to §§3.21 - 3.24, and new §3.20, §3.25, and §3.26 all relating to complaint resolution to be codified under Title 43, Texas Administrative Code, Part 1.

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

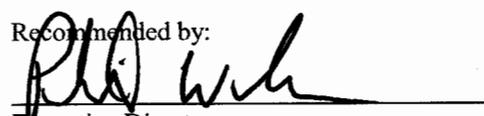
IT IS THEREFORE ORDERED by the commission that the repeal of §3.20 and §3.25, amendments to §§3.21 - 3.24, and new §3.20, §3.25 and §3.26 are adopted and are authorized for filing with the Office of the Secretary of State.

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:

  
Interim Director, Government  
Relations Office

Recommended by:

  
Executive Director

**112965 JAN 26 12**

Minute Number      Date Passed

Adoption Preamble

The Texas Department of Transportation (department) adopts the repeal of §3.20 and new §3.20, amendments to §§3.21 - 3.24, the repeal of §3.25, and new §3.25 and §3.26, all concerning complaint resolution. The repeal of §3.20 and new §3.20, amendments to §§3.21 - 3.24, the repeal of §3.25, and new §3.25 and §3.26 are adopted without changes to the proposed text as published in the November 11, 2011 issue of the *Texas Register* (36 TexReg 7647) and will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS

Senate Bill 1420, 82nd Legislature, Regular Session, 2011, made changes to Transportation Code, §201.801, related to complaint resolution. The amendments, repeals, and new sections incorporate those statutory changes into the department's existing rules related to complaint resolution. They prescribe the policies and procedures by which complaints may be filed, by which submitted complaints will be recorded and resolved, and by which the department will notify customers of its complaint process. The amendments standardize the department's complaint resolution process and facilitate submission of complaints through the use of technologies that were not available when the rules were initially adopted.

Current §3.20 is repealed and replaced with a new §3.20, which

1 sets out the new requirements adopted by the legislature in SB  
2 1420 for handling customer complaints. The new provisions  
3 restate parts of Transportation Code, §201.801, and require the  
4 department to maintain a system to promptly and efficiently act  
5 on complaints filed with the department; to maintain information  
6 about the parties to and the subject matter of a complaint, a  
7 summary of the review or investigation of the complaint, and the  
8 disposition of the complaint; to periodically notify the parties  
9 to the complaint of its status until final disposition unless  
10 notice would jeopardize an undercover investigation; and to make  
11 information available describing its procedures for complaint  
12 investigation and resolution. The new section states that the  
13 subchapter prescribes the policies and procedures applicable to  
14 the department's complaint process.

15  
16 Amendments to §3.21 exempt from the application of the  
17 subchapter reports and investigation requests that are made to  
18 the department's internal compliance office. The department has  
19 a separate process for handling internal compliance matters.

20  
21 Amendments to §3.22 recognize that an electronic complaint is a  
22 form of written complaint. The amendments add a definition of  
23 the term "person" to clarify that the term includes individuals,  
24 organizations, and all other legal entities. That definition is  
25 accompanied by changing the phrase "person or organization,"

1 which is used in the current rules, to "person" throughout the  
2 subchapter. The amendments delete the definition of "resolution  
3 letter" because it is no longer used in the subchapter. The  
4 amendments also delete the definition of "resolved" because it  
5 was meaningless and the matter is addressed in a substantive  
6 provision in §3.25.

7  
8 Amendments to §3.23 clarify that a written complaint should be  
9 addressed to the Public Information Officer. The "Report-a-  
10 Pothole" toll-free number has been added as an option for  
11 submitting an oral complaint. Those amendments update the rules  
12 to reflect the ways that information is currently collected by  
13 the department. The amendments also add language to authorize  
14 the filing of an electronic complaint through the department's  
15 Internet site or by submitting an email to AskTxDOT@txdot.gov.  
16 The amendments delete current subsection (d) which states that  
17 complaints will not be accepted through the Internet.

18  
19 Amendments to §3.24 delete the requirements that information  
20 about the ways for filing complaints be printed on the state  
21 travel maps and accompany applications and other information  
22 provided to entities regulated by the department. Much of the  
23 deleted language is no longer relevant because of the growth of  
24 electronic communication methods. The amendments reflect that  
25 printed material and mailings, which were previously used to

1 communicate with the public, are no longer a significant means  
2 of communication. The department has broad authority to  
3 determine the most effective methods to provide information to  
4 the public concerning complaint filing procedures in order to  
5 facilitate submission of complaints to the department and  
6 therefore, the listing of those specific methods is no longer  
7 necessary.

8  
9 Current §3.25 is repealed and replaced with new §3.25 and §3.26.  
10 New §3.25 removes the requirement that to be reviewed a  
11 complaint must be "found to be valid." All complaints filed  
12 under §3.23 will be reviewed and resolved. The changes provide  
13 that the department will determine the actions that have been or  
14 will be taken on the complaint or that no action will be taken.  
15 The department will advise the complainant of the actions taken  
16 or to be taken or that a determination has been made to take no  
17 action and the reason for that determination. Finally, if the  
18 department has not made a determination on the complaint within  
19 90 days after it is received, the department periodically will  
20 notify the complainant of the progress that is being made on the  
21 complaint until it is resolved. A complaint is considered to be  
22 resolved when the department informs the complainant of the  
23 determination that the department has made on the complaint.

24

25 New §3.26 reflects the changes to the requirements made by SB

1 1420 for the collection, analysis, and reporting of complaint  
2 information by the department. Subsection (a) provides that the  
3 department will maintain a computer database for complaints.  
4 The database will contain information on all complaints  
5 concerning the department whether filed with a business office  
6 of a district, division, office, or region of the department.  
7 It will contain the information appropriate for the compilation  
8 and analysis of detailed complaint data. In addition to the  
9 information that is required to be kept under the current rules  
10 the database will include the length of time required to provide  
11 a response to the customer from the date the complaint was  
12 received and if applicable, the county and district where the  
13 person, thing, or condition that is the subject of the complaint  
14 is located. New subsection (b) states that the department will  
15 provide detailed statistics and analyze trends on a district and  
16 division basis, and will analyze trends related to similar  
17 complaints. New subsection (c) states that the department will  
18 report complaint information monthly to region, division, and  
19 office directors, district engineers, and other upper level  
20 positions and quarterly to the Texas Transportation Commission  
21 (commission). The new provisions of §3.26 will standardize and  
22 facilitate department analysis of complaint statistics and trend  
23 analysis, in order to identify needed improvements.  
24

1 COMMENTS

2 No comments on the proposed repeals, amendments, and new  
3 sections were received.

4

5 STATUTORY AUTHORITY

6 The repeals, amendments, and new sections are adopted under  
7 Transportation Code, §201.101, which provides the commission  
8 with the authority to establish rules for the conduct of the  
9 work of the department, and more specifically, Transportation  
10 Code, §201.801, which requires the commission to adopt rules to  
11 establish the department's complaint resolution process.

12

13 CROSS REFERENCE TO STATUTE

14 Transportation Code, §201.801.

SUBCHAPTER C. COMPLAINT RESOLUTION

~~§3.20. Purpose. [Transportation Code, Section 201.801, requires the department to make information available to the public and appropriate state agencies describing its complaint resolution process. The sections under this subchapter prescribe the policies and procedures by which complaints may be filed, resolved, and recorded, and by which the department will notify consumers and service recipients of its complaint process.]~~

(a) Transportation Code, §201.801, requires the department to:

(1) maintain a system to promptly and efficiently act on complaints filed with the department;

(2) maintain information about the parties to and the subject matter of a complaint and a summary of the review or investigation of the complaint and the disposition of the complaint;

(3) periodically notify the parties to the complaint of its status until final disposition unless notice would jeopardize an undercover investigation; and

(4) make information available describing its procedures for complaint investigation and resolution.

(b) This subchapter prescribes the policies and procedures

1 by which complaints may be filed, resolved, and recorded, and by  
2 which the department will notify customers of its complaint  
3 process.

4  
5 §3.21. Applicability. The policies and procedures of this  
6 subchapter do not apply to a:

7 (1) contested case under §§1.21-1.38 [~~§§1.21-1.61~~] of  
8 this title (relating to Procedures in Contested Case  
9 [~~Procedure~~]);

10 (2) vendor protest of a delegated purchase under  
11 Government Code, Chapter 2155;

12 (3) department employee complaint governed by the  
13 department's Human Resources Manual; [~~or~~]

14 (4) routine inquiry, report of a condition on a state  
15 highway, or request for information; or [~~or~~]

16 (5) report of a matter or an investigation request  
17 submitted to the department's internal compliance office  
18 established under Transportation Code, Chapter 201, Subchapter  
19 F-1.

20  
21 §3.22. Definitions. The following words and terms, when used  
22 in this subchapter, shall have the following meanings, unless  
23 the context clearly indicates otherwise.

1 (1) Complainant--A person [~~or organization~~] who files a  
2 complaint.

3 (2) Complaint--An oral or written statement, including an  
4 electronic complaint submitted under §3.23(c) of this subchapter  
5 (relating to Filing a Complaint), concerning a matter which the  
6 department has the authority to resolve, and that:

7 (A) expresses dissatisfaction about:

8 (i) a department policy, program, procedure, action,  
9 or operation; or

10 (ii) an action or operation of a department  
11 contractor; and

12 (B) requests or implies that the department respond or  
13 take some action.

14 (3) Department--The Texas Department of Transportation.

15 (4) Person--An individual, firm, corporation, company,  
16 partnership, or other legal entity.

17 [~~(4) Resolution letter--The written document officially~~  
18 ~~closing a complaint file, specifying the action or measure taken~~  
19 ~~to resolve a complaint or explaining why no action or measure~~  
20 ~~was taken.]~~

21 [~~(5) Resolved -- The action taken by the department.]~~

22

23 §3.23. Filing a Complaint.

1 (a) Written complaint. A person [~~or organization~~] may file  
2 a written complaint addressed to the department, attention:

3 Public Information Officer [~~Office~~], at:

4 (1) its main business office, 125 East 11th Street,  
5 Austin, Texas 78701-2483; or

6 (2) any other business office of the department.

7 (b) Oral complaint. A person [~~or organization~~] may file an  
8 oral complaint:

9 (1) at any department business office in person or by  
10 telephone[~~, as listed in the local telephone directory~~]; or

11 (2) by calling: [~~1-800-558-9368 (55-TxDOT)~~].

12 (A) 1-800-558-9368 (55-TxDOT); or

13 (B) 1-888-885-8248 (Report-a-Pothole).

14 (c) Electronic complaint. A person may file an electronic  
15 complaint by completing and submitting the standard "Contact Us"  
16 form on the department's Internet site at [www.txdot.gov](http://www.txdot.gov) or by  
17 submitting an email to AskTxDOT@txdot.gov.

18 (d) [~~(e)~~] Content. A complaint should contain the  
19 following information:

20 (1) the name of the complainant [~~name, mailing address,~~  
21 ~~and telephone number of the complainant~~];

22 (2) the mailing address, telephone number, or email  
23 address of the complainant;

1           (3) [~~(2)~~] a concise statement of the nature of the  
2 complaint, including the underlying facts; and

3           (4) [~~(3)~~] the specific action or measure, if any,  
4 requested of the department.

5           ~~[(d) For purposes of this subchapter, written complaints~~  
6 ~~will not be accepted through the Internet.]~~

7

8 §3.24. Notice to Customers [~~Consumers and Service Recipients~~].

9 The department will provide contact information [~~notice of~~  
10 ~~mailing addresses and/or telephone numbers~~] as may be  
11 appropriate to geographical locations and subject matter for  
12 purposes of directing complaints to the department. In addition  
13 to any other method used by the department to provide the  
14 information, the department will publish notice of how to direct  
15 complaints: [~~Relevant information will at a minimum be provided~~  
16 ~~as follows.~~]

17           ~~[(1) General publication. The department will publish~~  
18 ~~notice of how to direct complaints.]~~

19           (1) [~~(A)~~] in selected public information literature;

20           ~~[(B) in the official state travel map;]~~

21           (2) [~~(C)~~] on the department's Internet site; and

22           (3) [~~(D)~~] at each business office of the department.

23           ~~[(2) Notice to entities regulated by the department. The~~

1 ~~department will include notice of how to direct complaints~~  
2 ~~concerning the department's regulation of a regulated entity in~~  
3 ~~an:]~~

4 [~~(A) application for an outdoor advertising license and~~  
5 ~~license renewal issued in Transportation Code, Chapter 391,~~  
6 ~~Subchapter C:]~~

7 [~~(B) application for rural road sign permit and permit~~  
8 ~~renewal issued under Transportation Code, Chapter 394:]~~

9 [~~(C) information piece concerning the control of~~  
10 ~~outdoor advertising signs:]~~

11 [~~(D) information piece concerning screening of~~  
12 ~~junkyards under Transportation Code, Chapter 391, Subchapter E:~~  
13 ~~and]~~

14 [~~(E) application for a permit issued under Chapter 28~~  
15 ~~of this title (relating to Oversize and Overweight Vehicles and~~  
16 ~~Loads) authorizing the movement of oversize and overweight~~  
17 ~~vehicles and loads.]~~

18

19 §3.25. Complaint Resolution.

20 (a) Review. The department will promptly review a  
21 complaint filed under §3.23 of this subchapter (relating to  
22 Filing a Complaint) and will make every reasonable effort to  
23 resolve the matter consistent with applicable law.

1           (b) Resolution. After reviewing the complaint the  
2 department will determine:

3           (1) the action that the department plans to take, or that  
4 action has been taken, to address the matter that is the subject  
5 of the complaint; or

6           (2) that the department will take no action on the  
7 matter.

8           (c) Department response.

9           (1) The department will provide to a person who files a  
10 complaint under §3.23 of this subchapter an oral, written, or  
11 electronic response that sets out the department's determination  
12 under subsection (b) of this section. If the department  
13 determines that it will take no action, the response will  
14 provide the reasons that determination was made.

15           (2) If the department does not provide a response under  
16 paragraph (1) of this subsection within 90 days after the date  
17 the complaint was received by the department, the department  
18 periodically will notify the complainant of the status of the  
19 complaint until it is resolved. A complaint is considered to be  
20 resolved when the department informs the complainant of the  
21 department's determination under subsection (b) of this section.

22           ~~[(a) Department response.]~~

23           ~~[(1) Review. The department will promptly review a~~

1 ~~complaint found to be valid and will make every reasonable~~  
2 ~~effort to resolve the matter consistent with applicable law.]~~

3 ~~[(2) Written complaints. The department will respond to~~  
4 ~~each written complaint by providing a resolution letter to the~~  
5 ~~complainant. The department will provide the person who filed~~  
6 ~~the complaint, and each person or entity that is the subject of~~  
7 ~~the complaint, information about the department's policies and~~  
8 ~~procedures relating to complaint investigation and resolution.]~~

9 ~~[(3) Oral complaints. The department may respond in~~  
10 ~~writing or orally to an oral complaint.]~~

11 ~~[(b) Recordkeeping.]~~

12 ~~[(1) File. The department will maintain an information~~  
13 ~~file for each written complaint and its disposition. The file~~  
14 ~~will contain:]~~

15 ~~[(A) the date the complaint is filed;]~~

16 ~~[(B) the name of the person filing the complaint;]~~

17 ~~[(C) the subject matter of the complaint;]~~

18 ~~[(D) a record of each person contacted in relation to~~  
19 ~~the complaint;]~~

20 ~~[(E) a summary of the results of the review or~~  
21 ~~investigation of the complaint; and]~~

22 ~~[(F) if the department takes no action on the~~  
23 ~~complaint, an explanation of the reasons that no action was~~

1 ~~taken.]~~

2  ~~[(2) Notification. If the department does not provide a~~  
3  ~~resolution letter to the complainant within 90 days of the date~~  
4  ~~the complaint is filed, the department will notify the~~  
5  ~~complainant of the status of the complaint on the 91st day and~~  
6  ~~every 90 days thereafter until a resolution letter is provided.]~~

7

8 §3.26. Complaint Data Collection, Analysis, and Reporting.

9 (a) Data collection. The department will maintain a  
10 computer database for complaints. The database will contain for  
11 each complaint filed under §3.23 of this subchapter (relating to  
12 Filing a Complaint) customer information that is appropriate for  
13 the compilation and analysis of detailed complaint data. The  
14 information will include:

15 (1) the date the complaint is filed;

16 (2) the name of the person filing the complaint;

17 (3) the subject matter of the complaint;

18 (4) a record of each person contacted in relation to the  
19 complaint;

20 (5) a summary of the results of the review or  
21 investigation of the complaint;

22 (6) if the department takes no action on the complaint,  
23 an explanation of the reasons that no action was taken;

1           (7) the length of time required to provide a response to  
2 the customer from the date that the complaint was received by  
3 the department; and

4           (8) if applicable, the county and district where the  
5 person, thing, or condition that is the subject of the complaint  
6 is located.

7           (b) Data analysis.

8           (1) The department will provide detailed statistics and  
9 analyze trends on a district and division basis.

10           (2) The department will identify trends related to  
11 similar complaints, including the number of persons who filed  
12 each type of complaint.

13           (c) Data reporting. The department will report complaint  
14 information:

15           (1) monthly to region, division, and office directors,  
16 district engineers, and individuals filling senior leadership  
17 positions; and

18           (2) quarterly to the Texas Transportation Commission.