

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

Page 1 of 1

ALL Districts

The Texas Transportation Commission (commission) finds it necessary to adopt new §§28.40 - 28.47, all relating to Victoria County Navigation District Permits to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that new §§28.40 - 28.47 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:

F. Paul Heller, P.E.
Director, Maintenance Division

Recommended by:

P. C. ...
Executive Director

113283 SEP 27 12

Minute Number Date Passed

1 Adoption Preamble

2 The Texas Department of Transportation (department) adopts new
3 §§28.40 - 28.47 concerning the permitting of oversize and
4 overweight vehicles and loads on certain state highways located
5 in Victoria County. New §§28.40 - 28.47 are adopted without
6 changes to the proposed text as published in the July 13, 2012
7 issue of the *Texas Register* (37 TexReg 5256) and will not be
8 republished.

9

10 EXPLANATION OF ADOPTED NEW SECTIONS

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

24

25 New §28.40 sets out the purpose of Subchapter E, which is to

1 allow the district the authority to issue permits for the
2 movement on roads designated by Transportation Code, §623.232 of
3 oversize or overweight vehicles weighing up to 140,000 pounds.
4
5 New §28.41 sets out the applicable definitions used in the
6 subchapter.
7
8 New §28.42 provides the powers and duties of the district and
9 the department for the implementation and oversight of the
10 district permit program. Subsection (a) authorizes the issuance
11 of permits and collection of fees and provides the maximum
12 dimensions and gross weight that may be allowed under a permit.
13 Subsection (b) authorizes the department to require a surety
14 bond to pay for the costs of the maintenance of the roadways
15 that are used by the permitted vehicles if the amount of the
16 fees deposited in the state highway fund is not sufficient to
17 cover those costs. The district can prevent recovery on the
18 bond by paying the amount not covered by the fees. The section
19 also covers the verification of permits, the provision of
20 training necessary for the district to issue permits, and the
21 accounting and auditing requirements. Subsection (g) provides
22 the department's authority to ensure that the district complies
23 with applicable law, including the rules in new Subchapter E.
24 Subsection (h) sets out the fee requirements. Subsection (i)
25 requires the district to enter into a contract with the

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

7
8 New §28.43 establishes the eligibility requirements that must be
9 satisfied for the issuance of a permit by the district. The
10 section prohibits the district from issuing a permit to a person
11 or for a vehicle if administrative penalties imposed under
12 Transportation Code, §623.271 have not been paid. This
13 prohibition is required under Transportation Code, §623.271.

14
15 New §28.44 sets out the requirements related to the form and
16 content of the application for a permit and of the permit. The
17 requirements are necessary to comply with Transportation Code,
18 §623.235 and are as consistent as possible with similar optional
19 permitting programs previously established by the department.

20
21 New §28.45 provides the permit weight limits for axles that the
22 district must follow as part of the permit program.
23 Requirements and specifications include minimum axle group
24 spacing and maximum permit weight for single and multiple axles.

25

1 New §28.46 sets forth movement requirements and restrictions
2 that the district and a permittee must follow as part of the
3 permit program. A permittee is required to carry the issued
4 permit when moving the permitted vehicle and is prohibited under
5 this section from moving an oversize or overweight load if a
6 permit becomes void. A permit is void on issuance if the
7 applicant for the permit gives false or incorrect information
8 and becomes void when the permittee fails to comply with the
9 restrictions or conditions stated in the permit or when the
10 permittee changes or alters the information in the permit. The
11 section provides limitations on the movement of a permitted
12 vehicle because of weather conditions, road work, or time of
13 day. Finally, the section sets out the requirements for types
14 of scales that may be used to weigh permitted vehicles and
15 provides speed restrictions.

16

17 New §28.47 provides the records maintenance requirements that
18 the district must follow as part of the permit program.

19

20 COMMENTS

21 No comments on the proposed new sections were received.

22

23 STATUTORY AUTHORITY

24 The new sections are adopted under Transportation Code,
25 §201.101, which provides the commission with the authority to

1 establish rules for the conduct of the work of the department,
2 and more specifically, Transportation Code, §623.232, which
3 allows the commission to authorize the district to issue permits
4 for the movement of oversize or overweight vehicles; and
5 Transportation Code, §623.239, which provides the commission
6 with the authority to establish rules necessary to implement a
7 permit program for the district.

8

9 CROSS REFERENCE TO STATUTE

10 Transportation Code, Chapter 623, Subchapter L.

1 SUBCHAPTER E. VICTORIA COUNTY NAVIGATION DISTRICT PERMITS

2 §28.40. Purpose. In accordance with Transportation Code,
3 Chapter 623, Subchapter L, the commission may authorize the
4 Victoria County Navigation District to issue permits for the
5 movement of oversize or overweight vehicles carrying cargo on
6 roads designated by Transportation Code, §623.232. This
7 subchapter sets forth the requirements and procedures applicable
8 to the issuance of permits by the Victoria County Navigation
9 District for the movement of oversize and overweight vehicles.

10
11 §28.41. Definition. In this subchapter, "district" means the
12 Victoria County Navigation District.

13
14 §28.42. District's Powers and Duties.

15 (a) Authority to issue permits. The district may issue a
16 permit and collect a fee for the movement within the district on
17 the roads designated by Transportation Code, §623.232 of a
18 vehicle or vehicle combination that exceeds the vehicle size or
19 weight limits specified by Transportation Code, Chapter 621,
20 Subchapters B and C, but does not exceed loaded dimensions of 12
21 feet wide, 16 feet high, and 110 feet long, and does not exceed
22 140,000 pounds gross weight.

23 (b) Surety bond. The department may require the district

1 to post a surety bond in the amount of \$500,000 for the
2 reimbursement of the department for actual maintenance costs of
3 roads designated by Transportation Code, §623.232 if revenue
4 collected from permits issued under this subchapter is
5 insufficient to pay for those costs and the district fails to
6 reimburse the department for those costs.

7 (c) Verification of permits. The district shall provide
8 law enforcement and department personnel access to any of the
9 district's property to verify compliance with this subchapter by
10 the district or another person.

11 (d) Training. The district shall provide or obtain any
12 training necessary for personnel to issue permits under this
13 subchapter. The department may provide assistance with training
14 on request by the district.

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

20 (f) Audits. The department may conduct audits annually or
21 on direction by the executive director of all permit issuance
22 activities of the district. To insure compliance with
23 applicable law, audits at a minimum will include a review of all

1 permits issued, financial transaction records related to permit
2 issuance, and vehicle scale weight tickets and the monitoring of
3 personnel issuing permits under this subchapter.

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

18 (h) Fees. Fees under this subchapter may be collected,
19 deposited, and used only as provided by Transportation Code,
20 §623.234. The district may determine acceptable methods of
21 payment. All fees transmitted to the department must be in U.S.
22 currency. On revocation of the district's authority to issue
23 permits, termination of the maintenance contract entered into

1 under subsection (i) of this section, or expiration of this
2 subchapter, the district shall pay to the department all permit
3 fees collected by the district, less allowable administrative
4 costs.

5 (i) Maintenance contract. The district shall enter into a
6 contract with the department for the maintenance of roads
7 designated by Transportation Code, §623.232 for which a permit
8 may be issued under this subchapter. The contract will cover
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, and may include other types of maintenance.

13 (j) Reporting. The district shall provide monthly and
14 annual reports to the department's Finance Division regarding
15 all permits issued and all fees collected during the period
16 covered by the report. The report must be in a format approved
17 by the department.

18

19 §28.43. Permit Eligibility.

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

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

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

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

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

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

10

11 §28.44. Permit Issuance Requirements and Procedures.

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

15 (1) the name of the applicant;

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

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

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

21 (5) the maximum weight and dimensions of the proposed
22 vehicle combination, including number of tires on each axle,
23 tire size for each axle, distance between each axle measured

1 from center of axle to center of axle, and the specific weight
2 of each individual axle when loaded;

3 (6) the location where the cargo will be loaded; and

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

5 (b) Permit form and contents. A permit issued under this
6 subchapter must be in a form approved by the department and at a
7 minimum must include all information required under
8 Transportation Code, §623.235(a) and §623.236.

9

10 §28.45. Permit Weight Limits for Axles.

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

13 (1) an axle group must have a minimum spacing of four
14 feet, measured from center of axle to center of axle, between
15 each axle in the group; and

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

20 (b) Maximum permit weight. Maximum permit weight for an
21 axle or axle group is the weight computed by multiplying 650
22 pounds times the total number of inches of the width of tires on
23 the axle or group or the following applicable axle or axle group

1 weight, whichever is less:

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

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

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

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

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

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

8 (A) the trunnion configuration has two axles;

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

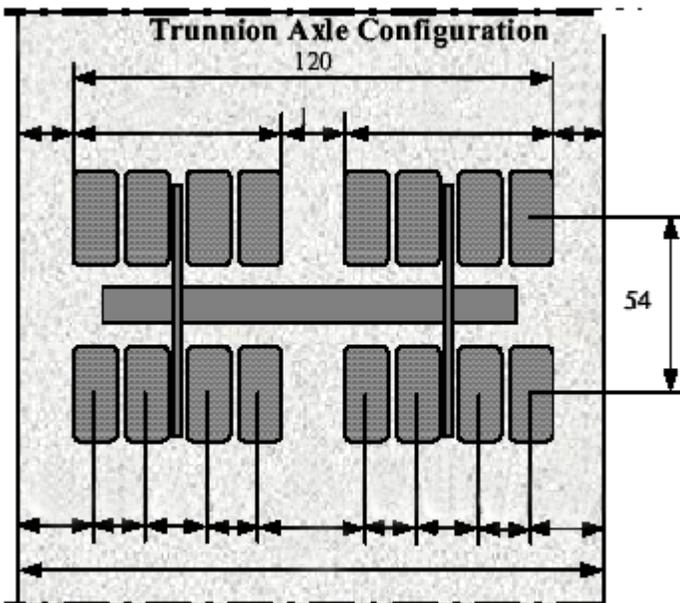
10 configuration; and

11 (C) the trunnion axle, as shown in the following

12 diagram, is 10 feet in width.

13 Figure: 43 TAC §28.45(b)(6)(C)

14



15

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

4 (d) Permits for vehicles exceeding permit weight limits.
5 For a vehicle exceeding weight limits provided in this section,
6 a person must apply directly to the Texas Department of Motor
7 Vehicles for an oversize or overweight permit in accordance
8 Transportation Code, Chapter 623.

9

10 §28.46. Movement Requirements and Restrictions.

11 (a) Carrying of permit. The original permit issued by the
12 district must be carried in the permitted vehicle.

13 (b) Prohibition on movement with void permit. A permittee
14 is prohibited from transporting an oversize or overweight load
15 with a void permit. A permit is void if the applicant gives
16 false or incorrect information. A permit becomes void when the
17 permittee fails to comply with the restrictions or conditions
18 stated in the permit or when the permittee changes or alters the
19 information in the permit.

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

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

23 (2) the road surface is hazardous due to weather

1 conditions, such as rain, ice, sleet, or snow; or

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

4 (d) Daylight and night movement restrictions. An oversize
5 permitted vehicle may be moved only during daylight hours. A
6 permitted vehicle that is overweight but not oversize may be
7 moved at any time.

8 (e) Weight ticket requirement. Any vehicle issued a permit
9 by the district must be weighed on scales that are capable of
10 determining gross vehicle weights and individual axle loads and
11 are certified by the Texas Department of Agriculture or accepted
12 by the United Mexican States.

13 (f) Speed. The maximum speed for a permitted vehicle is
14 set by Transportation Code, §623.237.

15

16 §28.47. Records. The district shall maintain records that
17 evidence compliance with this subchapter. Those records are
18 subject to audit by department personnel.