

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

Page 1 of 1

ALL Districts

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §18.2, §18.13, §18.14, §18.16, §18.17, §18.51, §18.58, §§18.63-18.65, §18.82, §§18.87-18.93 and §18.96, adopt the repeal of §18.18, and withdraw §18.32, all relating to motor carriers, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments and repeal, attached to this minute order as Exhibits A - E, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the amendments to §18.2, §18.13, §18.14, §18.16, §18.17, §18.51, §18.58, §§18.63-18.65, §18.82, §§18.87-18.93 and §18.96, the repeal of §18.18, and withdrawal of §18.32, 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:

Carol Davis  
Director, Motor Carrier Division

Recommended by:

M. W. Behrens  
Executive Director

**110506 APR 27 06**

Minute Number      Date Passed

1 Adoption Preamble

2 The Texas Department of Transportation (department) adopts  
3 amendments to §18.2, definitions, §18.13, §18.14, §18.16, §18.17  
4 and repeal of §18.18, concerning motor carrier registration, and  
5 amendments to §18.51, §18.58, and §§18.63-18.65, concerning  
6 consumer protection, and §18.82, §§18.87-18.93, and §18.96,  
7 concerning vehicle storage facilities. The repeal of §18.18,  
8 and amendments to §18.17, §18.51, §18.58, §18.63, §18.64,  
9 §18.82, §§18.87-18.91, §18.93 and §18.96 are adopted without  
10 changes to the proposed text as published in the December 2,  
11 2005 issue of the *Texas Register* (30 TexReg 8019) and will not  
12 be republished. The amendments to §18.2, §18.13, §18.14,  
13 §18.16, §18.65 and §18.92 are adopted with changes to the  
14 proposed text as published in the December 2, 2005 issue of the  
15 *Texas Register* (30 TexReg 8019). Section 18.32 is withdrawn.

16  
17 EXPLANATION OF ADOPTED AMENDMENTS AND REPEAL

18 The adopted amendments and repeal are necessary to implement the  
19 provisions of House Bills 480, 1018, 1584, 2630, and 2702 of the  
20 79th Legislature, Regular Session, 2005; update statutory  
21 references; clarify existing information; and address the  
22 implementation of online registration applications.

23  
24 House Bill 480 amended Occupations Code, §2303.155, to increase  
25 the notification charge a vehicle storage facility operator can

1 charge, from \$32 to \$50, and to increase the daily storage fee  
2 of a vehicle by \$5. House Bill 480 added Occupations Code,  
3 §2303.158 to clarify the condition under which a person claiming  
4 to be the vehicle owner of a towed vehicle can access their  
5 vehicle's interior storage in order to prove ownership.

6  
7 House Bill 1018 addressed commercial school bus regulations,  
8 providing an additional insurance level for certain commercial  
9 school buses and requiring a minimum liability insurance of at  
10 least \$500,000 combined single limit.

11  
12 House Bill 2630 addressed issues with vehicle storage  
13 facilities. It requires the name, address, and telephone number  
14 of the justice court be included in the contents of the notices  
15 provided to the owners of towed vehicles. House Bill 2630 also  
16 amends Occupations Code, §2303.152(a) and (e), to allow vehicle  
17 storage facility operators to issue notice by publication for  
18 vehicles not registered in Texas for nonconsent storage when a  
19 vehicle owner's identity or vehicle's state of registration  
20 cannot be determined. It requires vehicle storage facility  
21 operators to notify law enforcement when a vehicle has been  
22 abandoned at a vehicle storage facility. House Bill 2630 also  
23 adds language to prohibit vehicle storage facilities from  
24 charging additional fees related to storage other than fees set  
25 forth in statute.

1

2 House Bill 480, House Bill 1584 and House Bill 2630 all added  
3 language to require a vehicle storage facility operator to  
4 accept either electronic checks, debit cards, or credit cards as  
5 an alternative form of payment for vehicle storage charges.

6

7 House Bill 2702, Article 6, changed the alternative household  
8 goods carriers' registration requirements previously based on  
9 vehicle weight. The rules as proposed eliminated all references  
10 to Type A and Type B household goods carriers. The rule as  
11 adopted has been modified regarding Type B household goods  
12 carriers to allow the department time to further study the issue  
13 of minimum vehicle liability insurance requirements for  
14 household goods carriers who previously qualified as Type B  
15 carriers. The adopted rules re-establish Type B carriers to  
16 allow for the continuation of the current registration format  
17 with regard to vehicle liability insurance requirements. Other  
18 changes to household goods carriers remain as proposed. The  
19 department will propose additional rules at the conclusion of  
20 the study to address liability insurance requirements.

21

22 New §18.2(6)(A)(vi) expands the definition of commercial motor  
23 vehicle to include any vehicle transporting household goods for  
24 compensation, as required by House Bill 2702. The adopted  
25 amendment to §18.2(6)(B)(ii) updates the legal reference for

1 cotton vehicle registration and the adopted amendment to  
2 §18.2(7) adds a new definition for "commercial school bus" to  
3 comply with House Bill 1018. The definition of Type B household  
4 goods carriers, §18.2(51), is reinstated in the adopted rules to  
5 allow for the continuation of a separate registration process  
6 for carriers that meet the definition.

7  
8 Section 18.13(a)(3), relating to application for motor carrier  
9 registration, deletes the reference to the application to  
10 address the implementation of a new internal web-based  
11 registration process. The online registration process will  
12 streamline the application procedures and allow for a more  
13 efficient system.

14  
15 Section 18.13 is also changed from the proposed version to  
16 accommodate the separate registration process for Type B  
17 household good carriers. The rule as adopted reinstates the  
18 current language of the rule regarding the registration process  
19 and vehicle liability insurance.

20  
21 Adopted §18.14 reinstates the current language regarding the  
22 continuation of Type B carriers. With this change, Type B  
23 carriers do not have a set expiration date.

24  
25 Section 18.14(b)(1), relating to expiration and renewal of

1 commercial motor vehicle registration, allows the department to  
2 provide renewal notices by electronic mail to address the  
3 implementation of new online registration applications.

4  
5 The language in §18.16(a), regarding the vehicle liability  
6 insurance requirements, has been changed from the proposed  
7 language, reinstating the current language of the rule.

8  
9 Section 18.16(a), relating to insurance requirements, including  
10 numbered item 1, and subsections 18.16(b), (c), (f), and (h),  
11 comply with the requirements of House Bill 2702 regarding  
12 commercial household goods carriers. All references to letters  
13 of credit and the process for acceptance have been removed in  
14 the adopted language. The adopted rule also deletes references  
15 to surety bonds as they do not apply to motor carriers that are  
16 required to register including all household goods carriers.  
17 All household goods carriers are required to meet the same cargo  
18 and workers compensation insurance requirements. In addition,  
19 §18.16(c)(1) is adopted with changes to clarify the existing  
20 language.

21  
22 Numbered item 5 is added to the figure §18.16(a) to comply with  
23 the requirements of House Bill 1018 regarding commercial school  
24 buses. The adopted rule sets the minimum insurance level at  
25 \$500,000 as required by the statute. The remaining items are

1 renumbered accordingly. The word "of" is changed to "or" in  
2 renumbered item 11 of the figure to correct a grammatical error.

3  
4 Section 18.17, Single State Registration System, addresses  
5 implementation of a new online Single State Registration System  
6 (SSRS) and clarifies methods used to send SSRS renewal  
7 applications to customers. The deletion of language in  
8 §18.17(j)(6) eliminates duplicate insurance filing. The new  
9 system connects directly with the Federal Motor Carrier Safety  
10 Administration (FMCSA), therefore, it is no longer necessary to  
11 have the motor carrier file the insurance information with both  
12 entities.

13  
14 Section 18.18, Temporary Registration of International Motor  
15 Carriers, is repealed to comply with 49 CFR, Parts 365 and 385,  
16 effective March 19, 2002. The federal regulations now require  
17 that motor carriers from Mexico obtain operating authority  
18 through the FMCSA. With the federal change, temporary  
19 registration stamps are no longer necessary.

20  
21 Section 18.58(c)(1)(B), relating to moving services contract -  
22 options for carrier limitation of liability, changes the  
23 language to be consistent with the provisions of the household  
24 goods carriers contract terms and conditions used in interstate  
25 movements.

1  
2 Section 18.82(8), Definitions (Main entrance), reflects a recent  
3 administrative decision to clarify that a vehicle storage  
4 facility's main entrance is located at the point where a public  
5 road meets private property leading to the vehicle storage  
6 facility. The adopted change will help address problems  
7 consumers have in locating the facility.

8  
9 New §18.82(15), Vehicle transfer, is defined as "any movement of  
10 a vehicle out of a VSF, prior to its release as prescribed in  
11 §18.92(a)". Currently, this term is interpreted in a way that  
12 limits the release of a vehicle to a person other than another  
13 VSF.

14  
15 Section 18.87(b)(2), relating to notifications regarding towed  
16 vehicles, clarifies that the notification procedures apply to  
17 vehicles not registered in Texas. The amendment to  
18 §18.87(b)(2)(B) allows vehicle storage facilities to utilize  
19 publication to notify the owner of the vehicle if the vehicle  
20 does not display a license plate or vehicle inspection  
21 certificate and the storage facility cannot determine ownership  
22 and lien holder information. This change is necessary to comply  
23 with House Bill 2630.

24  
25 Section 18.89, Notice of Complaint Procedure, requires the

1 notice of complaint procedures be included on the front page of  
2 the bill for service. This is to ensure that the information is  
3 accessible to the consumer.

4  
5 Section 18.90, Rights of Owner or Authorized Representative, is  
6 amended to comply with House Bill 480 regarding access to a  
7 vehicle's interior to prove ownership.

8  
9 Section 18.91(b), pertaining to facility requirements, adds a  
10 new requirement that VSF operators provide a consumer with safe  
11 unobstructed access to a vehicle in order to establish  
12 ownership, and clarifies signage requirements.

13  
14 Section 18.92, Technical Requirements, implements House Bill  
15 2630 regarding the requirement that the vehicle storage facility  
16 provide information on the justice court that has jurisdiction  
17 and the law enforcement agency that authorized the tow.

18  
19 Section 18.92 requires the acceptance of new methods of payment  
20 for nonconsent storage as required by House Bill 480, House Bill  
21 2630, and House Bill 1584. The vehicle storage facility is  
22 required to accept either electronic checks, debit cards or  
23 credit cards as an alternative form of payment for fees  
24 associated with the towing and storage of the vehicle.

25

1 Section 18.92 prohibits a vehicle storage facility from refusing  
2 to release a vehicle impounded for evidentiary or examination  
3 purpose because a law enforcement agency has not paid the cost  
4 of towing and storage. In addition, the section is amended to  
5 comply with 37 TAC, §4.16, that prohibits the release of a  
6 commercial motor vehicle until delinquent penalties have been  
7 paid by the motor carrier.

8

9 Amendments to §18.93, Storage Fees and Charges, implement House  
10 Bills 480 and 2630 regarding fee increases and charge  
11 restrictions.

12

13 Amendments to §18.96(c), pertaining to disposal of certain  
14 vehicles, implements House Bill 2630 regarding notification to  
15 law enforcement of a vehicle abandoned at a vehicle storage  
16 facility.

17

18 COMMENTS

19 The department received comments regarding the proposed rule  
20 during the comment period from the Texas Towing & Storage  
21 Association, and Angenend & Augustine on behalf of Southwest  
22 Movers Association. A summary of the comments and the  
23 department's responses follow.

24

25 Comment

1 One commenter suggested a deletion of the last sentence of  
2 §18.92(a)(7) which stated "The licensee cannot charge the law  
3 enforcement agency for costs that accrued after the agency  
4 authorized the release of the vehicle." The change was  
5 requested due to arrangements some VSF operators have with law  
6 enforcement to store vehicles and their belief that the proposed  
7 language could have an impact on these arrangements.

8

9 Response

10 The department agrees with the suggested change and deletes the  
11 last sentence of §18.92(a)(7) which was added in the proposed  
12 rules. Code of Criminal Procedure, Article 18.23 does not  
13 require a law enforcement agency to pay the cost of storing a  
14 motor vehicle after the date the law enforcement agency  
15 authorizes the VSF to release the vehicle to the owner. The  
16 sentence was proposed for clarification purposes, however,  
17 removing the proposed sentence does not hinder a VSF from  
18 complying with the law nor does it limit the VSF from collecting  
19 the applicable charges.

20

21 Comment

22 One commenter suggests a new statement indicating that law  
23 enforcement "owes" the VSF when law enforcement has a hold on a  
24 vehicle, suggesting that law enforcement does not need a  
25 statement that protects them from a VSF.

1

2 Response

3 The department does not agree with this suggestion. This is not  
4 addressed in the statute and the department does not regulate  
5 law enforcement agencies.

6

7 Comment

8 One commenter suggests a change to §18.16(c)(1) and §18.65(a)  
9 regarding the use of the word "municipality." The commenter  
10 suggested inserting the word "incorporated" before the word  
11 "municipality" or suggested that the prior rule language be  
12 revised. The prior language "incorporated city, town, or  
13 village" includes the three classes of Texas municipalities.

14

15 Response

16 The department agrees in part with this suggestion. To aid the  
17 general public and the motor carrier industry the department  
18 withdraws the change submitted on the proposed rules, leaving  
19 the current language intact.

20

21 Comment

22 One commenter suggests clarifying the language used in  
23 §18.16(c)(1) by rewording it to read "If a motor carrier is  
24 required to register under this subchapter, and if its primary  
25 business is...."

1

2 Response

3 The department agrees that the proposed language is not clear  
4 and adopts the following language: "A motor carrier that is  
5 required to register under this subchapter and whose primary  
6 business is transportation for compensation or hire between two  
7 or more incorporated cities, towns, or villages shall  
8 provide...."

9

10 Comment

11 One commenter suggests updating the language in §18.16(h) to  
12 reflect revisions in the Insurance Code regarding a required  
13 finding of insolvency.

14

15 Response

16 The department does not agree with this suggestion. The rule  
17 mirrors Transportation Code, §643.105 and there has been no  
18 change to this statute. The revised language is to provide the  
19 motor carrier with direction and not to provide a definition of  
20 insolvency.

21

22 STATUTORY AUTHORITY

23 The amendments and repeal are adopted under Transportation Code,  
24 §201.101, which provides the Texas Transportation Commission  
25 (commission) with the authority to establish rules for the

1 conduct of the work of the department, and more specifically,  
2 Transportation Code, §643.003, which allows the department to  
3 adopt rules to administer Chapter 643 regarding motor carrier  
4 registration; and Occupations Code, §2303.051, which provides  
5 the commission with the authority to establish rules regarding  
6 vehicle storage facilities.

7

8 CROSS REFERENCE TO STATUTE

9 Transportation Code, Chapter 643, and Occupations Code, Chapter  
10 230.

1                                   SUBCHAPTER A.   GENERAL PROVISIONS

2 §18.2.   Definitions.   The following words and terms, when used  
3 in this chapter, shall have the following meanings, unless the  
4 context clearly indicates otherwise.

5           (1) Approved association--A group of household goods  
6 carriers, its agents, or both, that has an approved collective  
7 ratemaking agreement on file with the department under §18.64 of  
8 this chapter.

9           (2) Binding proposal--A formal written offer stating the  
10 exact price for the transportation of specified household goods  
11 and any related services.

12           (3) Certificate of insurance--A certificate prescribed by  
13 and filed with the department in which an insurance carrier or  
14 surety company warrants that a motor carrier for whom the  
15 certificate is filed has the minimum coverage as required by  
16 §18.16 and §18.86 of this chapter.

17           (4) Certificate of registration--A certificate issued by  
18 the department to a motor carrier and containing a unique  
19 number.

20           (5) Certified scale--Any scale designed for weighing  
21 motor vehicles, including trailers or semitrailers not attached  
22 to a tractor, and certified by an authorized scale inspection  
23 and licensing authority.   A certified scale may also be a

1 platform-type or warehouse-type scale properly inspected and  
2 certified.

3 (6) Commercial motor vehicle--

4 (A) Includes:

5 (i) any motor vehicle or combination of vehicles with  
6 a gross weight, registered weight, or gross weight rating in  
7 excess of 26,000 pounds, that is designed or used for the  
8 transportation of cargo in furtherance of any commercial  
9 enterprise;

10 (ii) all tow trucks, regardless of the gross weight  
11 rating of the tow truck;

12 (iii) any vehicle, including buses, designed or used  
13 to transport more than 15 passengers, including the driver;

14 (iv) any vehicle used in the transportation of  
15 hazardous materials in a quantity requiring placarding under the  
16 regulations issued under the federal Hazardous Materials  
17 Transportation Act (49 USC, App. §§1801-1813); [~~and~~]

18 (v) a commercial motor vehicle, as defined by 49 CFR  
19 §390.5, owned or controlled by a person or entity that is  
20 domiciled in or a citizen of a country other than the United  
21 States; and

22 (vi) any vehicle transporting household goods for  
23 compensation, regardless of the gross weight rating, registered

1 weight or gross weight.

2 (B) Does not include:

3 (i) a farm vehicle with a gross weight, registered  
4 weight, and gross weight rating of less than 48,000 pounds;

5 (ii) cotton vehicles registered under Transportation  
6 Code, \$504.505 [~~\$502.277~~];

7 (iii) a vehicle registered with the Railroad  
8 Commission under Texas Natural Resources Code, §113.131 and  
9 §116.072;

10 (iv) a vehicle transporting liquor under a private  
11 carrier permit issued in accordance with Alcoholic Beverage  
12 Code, Chapter 42;

13 (v) a motor vehicle used to transport passengers and  
14 operated by an entity whose primary function is not the  
15 transportation of passengers, such as a vehicle operated by a  
16 hotel, day-care center, public or private school, nursing home,  
17 or similar organization;

18 (vi) a motor vehicle registered under the Single  
19 State Registration System established under 49 USC §14504 when  
20 operating exclusively in interstate or international commerce;  
21 and

22 (vii) a vehicle operated by a governmental entity.

23 (7) Commercial school bus--A motor vehicle owned by a

1 motor carrier that is:

2 (A) registered under Transportation Code, Chapter 643,  
3 Subchapter B;

4 (B) operated exclusively within the boundaries of a  
5 municipality and used to transport preprimary, primary, or  
6 secondary school students on a route between the students'  
7 residences and a public, private, or parochial school or daycare  
8 facility;

9 (C) operated by a person who holds a driver's license or  
10 commercial driver's license of the appropriate class for the  
11 operation of a school bus;

12 (D) complies with Transportation Code Chapter 548; and

13 (E) complies with Transportation Code, §521.022.

14 (8) Commission--The Texas Transportation Commission.

15 (9) [~~+8~~] Consent tow--Any tow of a motor vehicle  
16 initiated by the owner or operator of the vehicle or by a person  
17 who has possession, custody, or control of the vehicle. The  
18 term does not include a tow of a motor vehicle initiated by a  
19 peace officer investigating a traffic accident or a traffic  
20 incident that involves the vehicle.

21 (10) [~~+9~~] Conspicuous--Written in a size, color, and  
22 contrast so as to be readily noticed and understood.

23 (11) [~~+10~~] Conversion--A change in an entity's

1 organization that is implemented with a Certificate of  
2 Conversion issued by the Texas Secretary of State under Texas  
3 Business Corporation Act, Article 5.18 [~~5.17~~].

4 (12) [~~(11)~~] Department--Texas Department of  
5 Transportation.

6 (13) [~~(12)~~] Director--The director of the Motor Carrier  
7 Division, Texas Department of Transportation.

8 (14) [~~(13)~~] Division--The Motor Carrier Division.

9 (15) [~~(14)~~] DOI--Texas Department of Insurance.

10 (16) [~~(15)~~] Estimate--An informal oral calculation of the  
11 approximate price of transporting household goods.

12 (17) [~~(16)~~] Farmer--A person who operates a farm or is  
13 directly involved in cultivating land or in raising crops or  
14 livestock that are owned by or are under the direct control of  
15 that person.

16 (18) [~~(17)~~] Farm vehicle--Any vehicle or combination of  
17 vehicles controlled or operated by a farmer or rancher being  
18 used to transport agriculture products, farm machinery, and farm  
19 supplies to or from a farm or ranch.

20 (19) [~~(18)~~] Gross weight rating--The maximum loaded  
21 weight of any combination of truck, tractor, and trailer  
22 equipment as specified by the manufacturer of the equipment. If  
23 the manufacturer's rating is unknown, the gross weight rating is

1 the greater of:

2 (A) the actual weight of the equipment and its lading;

3 or

4 (B) the maximum lawful weight of the equipment and its  
5 lading.

6 (20) [~~+19~~] Household goods--Personal property intended  
7 ultimately to be used in a dwelling when the transportation of  
8 that property is arranged and paid for by the householder or the  
9 householder's representative. The term does not include  
10 personal property to be used in a dwelling when the property is  
11 transported from a manufacturing, retail, or similar company to  
12 a dwelling if the transportation is arranged by a manufacturing,  
13 retail, or similar company.

14 (21) [~~+20~~] Household goods agent--A motor carrier who  
15 transports household goods on behalf of another motor carrier.

16 (22) [~~+21~~] Household goods carrier--A motor carrier who  
17 transports household goods for compensation or hire in  
18 furtherance of a commercial enterprise.

19 (23) [~~+22~~] Insurer--A person, including a surety,  
20 authorized in this state to write lines of insurance coverage  
21 required by Subchapter B and Subchapter G of this chapter.

22 (24) [~~+23~~] Inventory--A list of the items in a household  
23 goods shipment and the condition of the items.

1           (25) [~~+24~~] Leasing business--A person that leases  
2 vehicles requiring registration under Subchapter B of this  
3 chapter to a motor carrier that must be registered.

4           (26) [~~+25~~] Manager--The manager of the department's  
5 Motor Carrier Division, Motor Carrier Operations Section.

6           (27) [~~+26~~] Mediation--A non-adversarial form of  
7 alternative dispute resolution in which an impartial person, the  
8 mediator, facilitates communication between two parties to  
9 promote reconciliation, settlement, or understanding.

10          (28) [~~+27~~] Motor Carrier or carrier--A person that  
11 controls, operates, or directs the operation of one or more  
12 vehicles that transport persons or cargo over a public highway  
13 in this state.

14          (29) [~~+28~~] Motor transportation broker--A person who  
15 sells, offers for sale, or negotiates for the transportation of  
16 cargo by a motor carrier operated by another person or a person  
17 who aids and abets another person in selling, offering for sale,  
18 or negotiating for the transportation of cargo by a motor  
19 carrier operated by another person.

20          (30) [~~+29~~] Moving services contract--A contract between  
21 a household goods carrier and shipper, such as a bill of lading,  
22 receipt, order for service, or work order, that sets out the  
23 terms of the services to be provided.

1           (31) [~~+30~~] Multiple user--An individual or business who  
2 has a contract with a household goods carrier and who used the  
3 carrier's services more than 50 times within the preceding 12  
4 months.

5           (32) [~~+31~~] Nonconsent tow--Any tow of a motor vehicle  
6 that is not a consent tow.

7           (33) [~~+32~~] Not-to-exceed proposal--A formal written  
8 offer stating the maximum price a shipper can be required to pay  
9 for the transportation of specified household goods and any  
10 related services. The offer may also state the non-binding  
11 approximate price. Any offer based on hourly rates must state  
12 the maximum number of hours required for the transportation and  
13 related services unless there is an acknowledgment from the  
14 shipper that the number of hours is not necessary.

15           (34) [~~+33~~] Principal place of business--A single  
16 location that serves as a motor carrier's headquarters and where  
17 it maintains its operational records or can make them available.

18           (35) [~~+34~~] Public highway--Any publicly owned and  
19 maintained street, road, or highway in this state.

20           (36) [~~+35~~] Reasonable dispatch--The performance of  
21 transportation, other than transportation provided under  
22 guaranteed service dates, during the period of time agreed on by  
23 the carrier and the shipper and shown on the shipment

1 documentation. This definition does not affect the availability  
2 to the carrier of the defense of force majeure.

3 (37) [~~36~~] Registration receipt--A receipt issued to the  
4 registrant by its registration state after the requirements of  
5 49 CFR, Part 367 have been met.

6 (38) [~~37~~] Registration state--A state where the  
7 registrant maintains a valid single state registration as  
8 defined in 49 CFR, Part 367.

9 (39) [~~38~~] Replacement vehicle--A vehicle that takes the  
10 place of another vehicle that has been removed from service.

11 (40) [~~39~~] Revocation--The withdrawal of registration  
12 and privileges by the department or a registration state.

13 (41) [~~40~~] Shipper--The owner of household goods or the  
14 owner's representative.

15 (42) [~~41~~] Short-term lease--A lease of 30 days or less.

16 (43) [~~42~~] Single state registration system--The program  
17 established by 49 USC §14504.

18 (44) [~~43~~] SOAH--The State Office of Administrative  
19 Hearings.

20 (45) [~~44~~] State of travel--A state in which a motor  
21 carrier operates motor vehicles subject to the single state  
22 registration system.

23 (46) [~~45~~] Substitute vehicle--A vehicle that is leased

1 from a leasing business and that is used as a temporary  
2 replacement for a vehicle that has been taken out of service for  
3 maintenance, repair, or any other reason causing the temporary  
4 unavailability of the permanent vehicle.

5 (47) [~~+46~~] Suspension--Temporary removal of privileges  
6 granted to a registrant by the department or a registration  
7 state.

8 (48) [~~+47~~] Towing company--A motor carrier that  
9 transports vehicles using a tow truck.

10 (49) [~~+48~~] Tow--The utilization of a mechanical device  
11 used to winch or otherwise move another vehicle.

12 (50) [~~+49~~] Tow truck--A motor vehicle equipped with or  
13 used in combination with a mechanical device used to tow, winch,  
14 or otherwise move another vehicle. The following motor vehicles  
15 are not considered tow trucks:

16 (A) a motor vehicle owned and used exclusively by a  
17 governmental entity, including a public school district;

18 (B) a motor vehicle towing:

19 (i) a race car;

20 (ii) a motor vehicle for exhibition; or

21 (iii) an antique motor vehicle;

22 (C) a recreational vehicle towing another vehicle;

23 (D) a motor vehicle used in combination with a tow bar,

1 tow dolly, or other mechanical device if the vehicle is not  
2 operated in the furtherance of a commercial enterprise; or

3 (E) a motor vehicle that is controlled or operated by a  
4 farmer or rancher and that is used for towing a farm vehicle.

5 ~~[(50) Type A household goods carrier--A household goods~~  
6 ~~carrier that uses at least one motor vehicle or combination of~~  
7 ~~vehicles with a gross weight, registered weight, or gross weight~~  
8 ~~rating in excess of 26,000 pounds.]~~

9 (51) Type B household goods carrier--A household goods  
10 carrier that does not use a motor vehicle or combination of  
11 vehicles with a gross weight, registered weight, or gross weight  
12 rating in excess of 26,000 pounds.

1 SUBCHAPTER B. MOTOR CARRIER REGISTRATION

2 §18.13. Application for Motor Carrier Registration.

3 (a) Form of application. An application for motor carrier  
4 registration must be filed with the department's Motor Carrier  
5 Division and except as provided in subsection (i) of this  
6 section, must be in the form prescribed by the director and must  
7 contain, at a minimum, the following information.

8 (1) Business or trade name. The applicant must designate  
9 the business or trade name of the motor carrier.

10 (2) Owner name. If the motor carrier is a sole  
11 proprietorship, the owner must indicate the name and social  
12 security number of the owner. A partnership must indicate the  
13 partners' names, and a corporation must indicate principal  
14 officers and titles.

15 (3) Principal place of business. A motor carrier must  
16 disclose [~~designate on the application~~] the motor carrier's  
17 principal business address. If the mailing address is different  
18 from the principal business address, the mailing address must  
19 also be disclosed [~~designate on the application~~].

20 (4) Legal Agent.

21 (A) A Texas-domiciled motor carrier must provide the  
22 name and address of a legal agent for service of process if the  
23 agent is different from the motor carrier.

1 (B) A motor carrier domiciled outside Texas must  
2 provide the name and Texas address of the legal agent for  
3 service of process.

4 (C) A legal agent for service of process shall be a  
5 Texas resident, a domestic corporation, or a foreign corporation  
6 authorized to transact business in Texas with a Texas address  
7 for service of process.

8 (5) Description of vehicles. An application must include  
9 a motor carrier equipment report identifying each commercial  
10 motor vehicle that requires registration and that the carrier  
11 proposes to operate. Each commercial motor vehicle must be  
12 identified by its motor vehicle identification number, make,  
13 model year, and type of cargo and by the unit number assigned to  
14 the commercial motor vehicle by the motor carrier. Any  
15 subsequent registration of vehicles must be made under  
16 subsection (e) of this section.

17 (6) Type of motor carrier operations. An applicant must  
18 state if the applicant:

19 (A) proposes to transport passengers, household goods,  
20 or hazardous materials;

21 (B) is a tow truck company that performs nonconsent  
22 tows; or

23 (C) is domiciled in a foreign country.

1 (7) Insurance coverage. An applicant must indicate  
2 insurance coverage as required by §18.16 of this subchapter.

3 (8) Safety affidavit. Each motor carrier must complete,  
4 as part of the application, an affidavit stating that the motor  
5 carrier knows and will conduct operations in accordance with all  
6 federal and state safety regulations.

7 (9) Drug-testing certification. Each motor carrier must  
8 certify, as part of the application, that the motor carrier is  
9 in compliance with the drug-testing requirements of 49 C.F.R.  
10 Part 382.

11 (A) Drug-testing consortium participants. If the motor  
12 carrier belongs to a consortium, as defined by 49 C.F.R. Part  
13 382, the applicant must provide the names of the persons  
14 operating the consortium.

15 (B) Report of positive result. A motor carrier  
16 required to register under this section shall report to the  
17 Department of Public Safety, in the manner required by the  
18 Department of Public Safety, a valid positive result on a  
19 controlled substances test performed as part of the carrier's  
20 drug testing program on an employee of the carrier who holds a  
21 commercial driver's license under Transportation Code, Chapter  
22 522. The term "employee" as used in this subparagraph includes  
23 all employees as defined in Title 49, Code of Federal

1 Regulations, Part 40.3.

2 (10) Duration of registration. An applicant must  
3 indicate the duration of the desired registration. Registration  
4 may be for seven calendar days or for 90 days, one year, or two  
5 years. The duration of registration chosen by the applicant  
6 will be applied to all vehicles. Household goods carriers may  
7 not obtain seven day or 90 day certificates of registration.

8 (11) Additional requirements. The following fees and  
9 information must be submitted with all applications.

10 (A) An application must be accompanied by an  
11 application fee of:

12 (i) \$100 for annual and biennial registrations;

13 (ii) \$25 for 90 day registrations; or

14 (iii) \$5 for seven day registrations.

15 (B) An application must be accompanied by a vehicle  
16 registration fee of:

17 (i) \$10 for each vehicle, other than a tow truck,  
18 requiring registration or \$25 for each tow truck that the motor  
19 carrier proposes to operate under a seven day, 90 day, or annual  
20 registration; or

21 (ii) \$20 for each vehicle, other than a tow truck,  
22 requiring registration or \$50 for each tow truck that the motor  
23 carrier proposes to operate under a biennial registration.

1 (C) An application must be accompanied by proof of  
2 insurance or financial responsibility and insurance filing fee  
3 as required by §18.16 of this subchapter.

4 (D) An application must be accompanied by any other  
5 information required by law.

6 (12) Application of fees. Applicants who have paid  
7 vehicle fees under §18.17 of this subchapter may request that  
8 the department apply those fees to the carrier's motor carrier  
9 registration. The request must be accompanied by a copy of the  
10 Single State Registration receipt. On review of the Single  
11 State Registration receipt, the department will apply fees paid  
12 under the Single State Registration System as follows.

13 (A) The per vehicle fees paid by the applicant will be  
14 applied on a per vehicle basis toward the vehicle fees that the  
15 applicant owes for the vehicles registered under motor carrier  
16 registration.

17 (B) Vehicle fees will be applied only to the first year  
18 of registration if an applicant applies for a biennial motor  
19 carrier registration. The motor carrier must pay all vehicle  
20 fees for the second year.

21 (b) Incomplete applications. The director will return an  
22 application to the applicant if it is not accompanied by all  
23 fees and by proof of insurance or financial responsibility.

1           (c) Conditional acceptance of application. The director  
2 may conditionally accept an application if it is accompanied by  
3 all fees and by proof of insurance or financial responsibility,  
4 but is not accompanied by all required information. Conditional  
5 acceptance in no way constitutes approval of the application.  
6 The director will notify the applicant of any information  
7 necessary to complete the application. If the applicant does  
8 not supply all necessary information within 45 days from  
9 notification by the director, the application will be considered  
10 withdrawn and all fees will be retained.

11           (d) Disposition of application.

12           (1) Approval. An applicant meeting the requirements of  
13 this section and whose registration is approved will be issued  
14 the following documents.

15           (A) Certificate of registration. The department will  
16 issue a certificate of registration. The certificate of  
17 registration will contain the name and address of the motor  
18 carrier and a single registration number, regardless of the  
19 number of vehicles requiring registration that the carrier  
20 operates.

21           (B) Insurance cab card. The department will issue an  
22 original insurance cab card listing all vehicles to be operated  
23 under the carrier's certificate of registration. The insurance

1 cab card shall be continuously maintained at the registrant's  
2 principal place of business. The insurance cab card will be  
3 valid for the same period as the motor carrier's certificate of  
4 registration and will contain information regarding each vehicle  
5 registered by the motor carrier. This subparagraph does not  
6 apply to Type B household goods carriers.

7 (i) A copy of the page of the insurance cab card on  
8 which the vehicle is shown shall be maintained in each vehicle  
9 listed. The appropriate information concerning that vehicle  
10 shall be highlighted. The insurance cab card will serve as  
11 proof of insurance as long as the motor carrier has continuous  
12 insurance or financial responsibility on file with the  
13 department.

14 (ii) On demand by a department-certified inspector or  
15 any other authorized government personnel, the driver shall  
16 present the highlighted page of the insurance cab card that is  
17 maintained in the vehicle.

18 (iii) The carrier shall notify the department in  
19 writing if it discontinues use of a registered commercial motor  
20 vehicle before the expiration of its insurance cab card.

21 (iv) Any erasure, alteration, or unauthorized use of  
22 an insurance cab card renders it void.

23 (v) If an original insurance cab card is lost,

1 stolen, destroyed, or mutilated, if it becomes illegible, or if  
2 it otherwise requires replacement, a new insurance cab card will  
3 be issued by the department at the request of the motor carrier.

4 (vi) Registration listings previously issued by the  
5 department will remain valid until expiration or renewal or  
6 until revoked or suspended by the department.

7 (2) Denial. The department may deny a registration if  
8 the applicant had a registration revoked under §18.72 of this  
9 chapter.

10 (e) Additional and Replacement Vehicles. A motor carrier  
11 required to obtain a certificate of registration under this  
12 section shall not operate additional vehicles unless the carrier  
13 identifies the vehicles on a form prescribed by the director and  
14 pays applicable fees as described in this subsection.

15 (1) Additional vehicles. To add a vehicle, a motor  
16 carrier must pay a fee of \$10 for each additional vehicle, other  
17 than a tow truck, or \$25 for each tow truck that the motor  
18 carrier proposes to operate under a seven day, 90 day, or annual  
19 registration. To add a vehicle during the first year of a  
20 biennial registration, a motor carrier must pay a fee of \$20 for  
21 each vehicle, other than a tow truck, or \$50 for each tow truck.  
22 To add a vehicle during the second year of a biennial  
23 registration, a motor carrier must pay a fee of \$10 for each

1 vehicle, other than a tow truck, or \$25 for each tow truck.

2 (2) Replacement vehicles. No fee is required for a  
3 vehicle that is replacing a vehicle for which the fee was  
4 previously paid. Before the replacement vehicle is put into  
5 operation, the motor carrier shall notify the department,  
6 identify the vehicle being taken out of service, and identify  
7 the replacement vehicle on a form prescribed by the department.  
8 A motor carrier registered under seven day registration may not  
9 replace vehicles.

10 (3) Fees paid under the Single State Registration System.  
11 Vehicle fees paid under §18.17 of this subchapter will be  
12 applied toward a motor carrier's vehicle fees under subsection  
13 (a)(12) of this section.

14 (f) Supplement to original application. A motor carrier  
15 required to register under this section shall submit a  
16 supplemental application under the following circumstances.

17 (1) Change of cargo. A registered motor carrier may not  
18 begin transporting household goods or hazardous materials, or  
19 performing nonconsent tows, unless the carrier submits a  
20 supplemental application to the department and shows the  
21 department evidence of insurance or financial responsibility in  
22 the amounts specified by §18.16 of this subchapter.

23 (2) Change of name. A motor carrier that changes its

1 name shall file a supplemental application for registration no  
2 later than the effective date of the change. The motor carrier  
3 shall include evidence of insurance or financial responsibility  
4 in the new name and in the amounts specified by §18.16 of this  
5 subchapter. A motor carrier that is a corporation must have its  
6 name change approved by the Texas Secretary of State before  
7 filing a supplemental application. A motor carrier incorporated  
8 outside the State of Texas must complete the name change under  
9 the law of its state of incorporation before filing a  
10 supplemental application.

11 (3) Change of address or legal agent for service of  
12 process. A motor carrier shall file a supplemental application  
13 for any change of address or any change of its legal agent for  
14 service of process no later than the effective date of the  
15 change. The address most recently filed will be presumed  
16 conclusively to be the current address.

17 (4) Change in principal officers and titles. A motor  
18 carrier that is a corporation shall file a supplemental  
19 application for any change in the principal officers and titles  
20 no later than the effective date of the change.

21 (5) Conversion of corporate structure. A motor carrier  
22 that has successfully completed a corporate conversion involving  
23 a change in the name of the corporation shall file a

1 supplemental application for registration and evidence of  
2 insurance or financial responsibility reflecting the new company  
3 name. The conversion must be approved by the Texas Secretary of  
4 State before the supplemental application is filed.

5 (6) Change in drug-testing consortium status. A motor  
6 carrier that changes consortium status shall file a supplemental  
7 application that includes the names of the persons operating the  
8 consortium.

9 (7) Retaining a revoked or suspended certificate of  
10 registration number. A motor carrier may retain a prior  
11 certificate of registration number by:

12 (A) filing a supplemental application to re-register  
13 instead of filing an original application; and

14 (B) providing adequate evidence that the carrier has  
15 satisfactorily resolved the facts that gave rise to the  
16 suspension or revocation.

17 (g) Change of ownership. A motor carrier must file an  
18 original application for registration when there is a corporate  
19 merger or a change in the ownership of a sole proprietorship or  
20 of a partnership.

21 (h) Alternative vehicle registration for household goods  
22 agents. To avoid multiple registrations of a commercial motor  
23 vehicle, a household goods agent's vehicles may be registered

1 under the motor carrier's certificate of registration under this  
2 subsection.

3 (1) The carrier must notify the department on a form  
4 approved by the director of its intent to register its agent's  
5 vehicles under this subsection.

6 (2) When a carrier registers vehicles under this  
7 subsection, the carrier's certificate will include all vehicles  
8 registered under its agent's certificates of registration. The  
9 carrier must register under its certificate of registration all  
10 vehicles operated on its behalf that do not appear on its  
11 agent's certificate of registration.

12 (3) The department may send the carrier a copy of any  
13 notification sent to the agent concerning circumstances that  
14 could lead to denial, suspension, or revocation of the agent's  
15 certificate.

16 (i) Type B household goods carriers. An application for  
17 motor carrier registration submitted by a Type B household goods  
18 carrier shall be in the form prescribed by the director.

19 (1) The carrier's application must contain all the  
20 information described in subsection (a) of this section, except  
21 for the information specified in subsection (a)(5) and (7) of  
22 this section.

23 (2) The carrier's application must be accompanied by a

1 \$100 application fee.

2 (3) The carrier's application must be accompanied by  
3 proof of financial responsibility for cargo loss or damage and  
4 by the filing fee specified in §18.16 of this subchapter.]

5 [(4) The carrier's application must include a statement  
6 certifying that the carrier:

7 (A) is in compliance with Transportation Code, Chapter  
8 601; and

9 (B) if the carrier maintains an automobile liability  
10 insurance policy to comply with Transportation Code, Chapter  
11 601, then the policy is an enforceable commercial or business  
12 automobile liability insurance policy]

13 (5) The department will issue an original certificate of  
14 registration, which must be continuously maintained at the  
15 registrant's principal place of business.

16 (6) A carrier shall carry a copy of its certificate of  
17 registration either in the cab of each vehicle or in each  
18 trailer used for the transportation of household goods.

19 (7) The carrier shall notify the department in writing  
20 when it discontinues operations as a transporter of household  
21 goods.

22 (8) On demand by a department-certified inspector or any  
23 other authorized government personnel, the driver shall present

1 the certificate of registration maintained in the vehicle.

2 (9) The certificate of registration is continuously in  
3 effect until suspended or revoked by the department. A motor  
4 carrier may voluntarily cancel the certificate of registration  
5 by submitting a supplemental application or written request.

6 (10) Any erasure, alteration, or unauthorized use of a  
7 certificate of registration renders it void.

8 (j) Substitute vehicles leased from leasing businesses. A  
9 registered motor carrier is not required to comply with the  
10 provisions of subsection (e) of this section for a substitute  
11 vehicle leased from a business registered under §18.19 of this  
12 subchapter. A motor carrier is not required to carry proof of  
13 registration as described in subsection (d) of this section if a  
14 copy of the lease agreement for the originally leased vehicle is  
15 carried in the cab of the temporary replacement vehicle.

16  
17 §18.14. Expiration and Renewal of Commercial Motor Vehicle  
18 Registration.

19 (a) Expiration and renewal dates.

20 (1) A motor carrier with annual or biennial registration,  
21 other than a Type B household goods carrier, will be assigned a  
22 date for the expiration and renewal of its motor carrier  
23 registration according to the last digit of the carrier's

1 certificate of registration number, as outlined in the following  
2 chart: Figure: 43 TAC §18.14(a)(1) (No change.)

If the last digit is:           Registration must be renewed  
  before the first day of:

1	January
2	February
3	March
4	April
5	May
6	June
7	July
8	October
9	November
0	December

3  
4           (2) Certificates of registration for Type B household  
5 goods carriers remain in effect until suspended or revoked.

6           (3) 90 day certificates of registration are valid for 90  
7 calendar days from the effective date.

8           (4) Seven day certificates of registration are valid for  
9 seven calendar days from the effective date.

10          (b) Registration renewal.

11          (1) Approximately 60 days before the expiration of

1 registration, the department will mail or send electronically a  
2 renewal notice to each registered motor carrier with annual or  
3 biennial registration, other than a Type B household goods  
4 carrier. The notice will be mailed to the carrier's last known  
5 address according to the division's records. Failure to receive  
6 the notice does not relieve the registrant of the responsibility  
7 to renew. A motor carrier must ensure that the department  
8 receives the renewal at least 15 days prior to the renewal date  
9 specified in subsection (a) of this section. A supplement to an  
10 application for motor carrier registration renewal must:

11 (A) supply any new information required under §18.13(f)  
12 of this subchapter if the information has not previously been  
13 supplied to the department;

14 (B) include a \$10 fee for each vehicle, other than a  
15 tow truck, requiring registration or \$25 for each tow truck that  
16 the carrier operates under an annual certificate of registration  
17 and a \$20 fee for each vehicle, other than a tow truck,  
18 requiring registration or \$50 for each tow truck that the  
19 carrier operates under a biennial certificate of registration;  
20 and

21 (C) include a copy of the Single State Registration  
22 receipt when requesting that vehicle fees paid under §18.17 of  
23 this subchapter be applied toward the fees specified by this

1 subsection.

2 (2) Seven day and 90 day registrations may not be  
3 renewed.

4 (3) A motor carrier shall maintain continuous insurance  
5 or evidence of financial responsibility in an amount at least  
6 equal to the amount prescribed under §18.16 of this subchapter.

7 (4) The insurance cab card issued to a motor carrier is  
8 valid for the same period as the motor carrier's certificate of  
9 registration.

10 (5) To renew registration after it has expired, a motor  
11 carrier must identify its vehicles on a form prescribed by the  
12 director, pay all vehicle fees, and if current proof of  
13 insurance is not on file with the division, meet all insurance  
14 requirements.

15

16 §18.16. Insurance Requirements.

17 (a) Automobile liability insurance requirements.

18 (1) A motor carrier, other than a Type B household goods  
19 carrier, must file proof of commercial automobile liability  
20 insurance with the department on a form acceptable to the  
21 director for each vehicle required to be registered under this  
22 subchapter. The motor carrier must carry and maintain  
23 automobile liability insurance that is combined single limit

1 liability for bodily injury to or death of an individual per  
 2 occurrence, loss or damage to property (excluding cargo) per  
 3 occurrence, or both. Extraneous information will not be  
 4 considered acceptable, and the department may reject proof of  
 5 commercial automobile liability insurance if it is provided in a  
 6 format that includes information beyond what is required.

7 Minimum insurance levels are indicated in the following table.

8 Figure: 43 TAC §18.16(a) [~~1~~]

Type of Vehicle	Minimum Insurance Level
1. Tow trucks (gross vehicle weight less than 26,000 lbs.).	\$ 300,000
2. Buses designed or used to transport more than 15 passengers (including the driver), but fewer than 26 passengers (not including the driver).	\$ 500,000
3. Commercial motor vehicles which are buses with a seating capacity of 15 passengers or fewer (including the driver) operated by a foreign motor carrier and foreign motor private carrier as defined in 49 USC §13102.	\$1,500,000
4. Buses designed or used to transport 26 passengers or more (not including the driver).	\$5,000,000
5. <u>Commercial school buses, regardless of the passenger capacity as described in Transportation Code, §643.1015.</u>	<u>\$500,000</u>
6. [ <del>5</del> ] Commercial motor vehicles that are buses with a seating capacity of 16 passengers or more (including the driver) operated by a foreign motor carrier or foreign motor private carrier as defined in 49 USC §13102.	\$5,000,000
7. [ <del>6</del> ] Farm trucks (gross vehicle weight 48,000 lbs. or more).	\$ 500,000
8. [ <del>7</del> ] Commercial motor vehicles (gross vehicle weight in excess of 26,000 lbs.),	\$ 500,000

NOTE: Amendments underlined  
 Deletions in [ ]  
 OGC: 04/11/06 3:31 PM

Exhibit C

Type of Vehicle	Minimum Insurance Level
including tow trucks.	
9. [ <del>8.</del> ] Commercial motor vehicles, as defined in 49 CFR §390.5, operated by a foreign motor carrier or foreign motor private carrier as defined in 49 USC §13102.	\$ 750,000
10. [ <del>9.</del> ] Commercial motor vehicles - Oil listed in 49 CFR §172.101; hazardous waste, hazardous materials and hazardous substances defined in 49 CFR §171.8 and listed in 49 CFR §172.101, but not mentioned in item 10 of this table.	\$1,000,000
11. [ <del>10.</del> ]. Commercial motor vehicles - Hazardous substances, as defined in 49 CFR §171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons; or any quantity of Division 1.1, 1.2, and 1.3 materials, any quantity of Division 2.3, Hazard Zone A material; in bulk Division 2.1 <u>or</u> [ <del>or</del> ] 2.2; or highway route controlled quantities of a Class 7 material, as defined in 49 CFR §173.403.	\$5,000,000

1

2 (2) Type B household goods carriers shall comply with the  
 3 applicable requirements of Transportation Code, Chapter 601. If  
 4 a Type B household goods carrier maintains an automobile  
 5 liability insurance policy to comply with Transportation Code,  
 6 Chapter 601, the policy must be an enforceable commercial or  
 7 business automobile liability insurance policy.

8 (b) Cargo insurance.

9 (1) Household [~~Type A household goods carriers. A Type A~~  
 10 ~~household~~] goods carriers [~~carrier~~] shall file and maintain with

1 the department proof of financial responsibility.

2 (A) The minimum limits of financial responsibility for  
3 a household goods carrier for hire is \$5,000 for loss or damage  
4 to a single shipper's cargo carried on any one motor vehicle.

5 (B) The minimum limits of financial responsibility for  
6 a household goods carrier for hire is \$10,000 for aggregate loss  
7 or damage to multiple shipper cargo carried on any one motor  
8 vehicle. In cases in which multiple shippers sustain damage and  
9 the aggregate amount of cargo damage is greater than the cargo  
10 insurance in force, the insurance company shall prorate the  
11 benefits among the shippers in relationship to the damage  
12 incurred by each shipper.

13 [~~(2) Type B household goods carriers. A Type B household~~  
14 ~~goods carrier shall file and maintain with the department proof~~  
15 ~~of financial responsibility.~~]

16 [~~(A) The minimum level of financial responsibility for~~  
17 ~~loss or damage to total cargo carried on any one motor vehicle~~  
18 ~~is a \$5,000.~~]

19 [~~(B) The minimum level of financial responsibility for~~  
20 ~~aggregate loss or damage to multiple shipper cargo carried on~~  
21 ~~any one motor vehicle is \$5,000. In cases in which multiple~~  
22 ~~shippers sustain damage and the aggregate amount of cargo damage~~  
23 ~~is greater than the cargo insurance in force, the insurance~~

1 ~~company shall prorate the benefits among the shippers in~~  
2 ~~relationship to the damage incurred by each shipper.]~~

3       (2) ~~[(3)]~~ Tow truck company performing nonconsent tows.  
4 A tow truck company that performs nonconsent tows shall file and  
5 maintain with the department proof of financial responsibility  
6 for on-hook cargo. The minimum level of financial  
7 responsibility for each registered vehicle performing nonconsent  
8 tows will be in the amount of at least \$50,000.

9       (c) Workers' compensation or accidental insurance coverage.

10       (1) A ~~[If a]~~ motor carrier that is required to register  
11 under this subchapter~~[7]~~ and whose ~~[if its]~~ primary business is  
12 transportation for compensation or hire ~~[7 and if it operates]~~  
13 between two or more incorporated cities, towns, or villages~~[7]~~  
14 ~~[the carrier]~~ shall provide workers' compensation for all its  
15 employees or accidental insurance coverage in the amounts  
16 prescribed in paragraph (2) of this subsection. ~~[This~~  
17 ~~subsection does not apply to Type B household goods carriers.]~~

18       (2) Accidental insurance coverage required by paragraph  
19 (1) of this subsection shall be at least in the following  
20 amounts:

21           (A) \$300,000 for medical expenses and coverage for at  
22 least 104 weeks;

23           (B) \$100,000 for accidental death and dismemberment,

1 including 70% of employee's pre-injury income for not less than  
2 104 weeks when compensating for loss of income; and

3 (C) \$500 for the maximum weekly benefit.

4 (d) Qualification of motor carrier as self-insured.

5 (1) General qualifications. A motor carrier may meet the  
6 insurance requirements of subsections (a) and (b) of this  
7 section by filing an application, in a form prescribed by the  
8 department, to qualify as a self-insured. The application must  
9 include a true and accurate statement of the motor carrier's  
10 financial condition and other evidence that establishes its  
11 ability to satisfy obligations for bodily injury and property  
12 damage liability without affecting the stability or permanency  
13 of its business. The department may accept United States  
14 Department of Transportation evidence of the motor carrier's  
15 qualifications as a self-insured.

16 (2) Adopted final orders. The department adopts all  
17 final orders of the Railroad Commission of Texas to the extent  
18 that they concern self-insurance and were in effect on August  
19 31, 1995. Those final orders are continued in effect until  
20 changed by order of the department.

21 (3) Applicant guidelines. In addition to filing an  
22 application as prescribed by the department, an applicant for  
23 self-insured status must submit materials that will allow the

1 department to determine the following information.

2 (A) Applicant's net worth. An applicant's net worth  
3 must be adequate in relation to the size of its operations and  
4 the extent of its request for self-insurance authority. The  
5 applicant must demonstrate that it can and will maintain an  
6 adequate net worth.

7 (B) Self-insurance program. An applicant must  
8 demonstrate that it has established and will maintain a sound  
9 insurance program that will protect the public against all  
10 claims involving motor vehicles to the same extent as the  
11 minimum security limits applicable under this section. In  
12 determining whether an applicant is maintaining a sound  
13 insurance program, the department will consider:

- 14 (i) reserves;  
15 (ii) sinking funds;  
16 (iii) third-party financial guarantees;  
17 (iv) parent company or affiliate sureties;  
18 (v) excess insurance coverage; and  
19 (vi) other appropriate aspects of the applicant's  
20 program.

21 (C) Safety program. An applicant must submit evidence  
22 of substantial compliance with the Federal Motor Carrier Safety  
23 Regulations as adopted by the Texas Department of Public Safety

1 and with Transportation Code, Chapter 644.

2 (4) Other securities or agreements. The department may  
3 accept an application for approval of a security or agreement if  
4 satisfied that the security or agreement offered will adequately  
5 protect the public.

6 (5) Periodic reports. An applicant shall file annual  
7 statements, semi-annual and quarterly reports, and any other  
8 reports required by the department reflecting the applicant's  
9 financial condition and the status of its self-insurance program  
10 while the motor carrier is self-insured.

11 (6) Duration of self-insured status. The department may  
12 approve an applicant as a self-insured for any specific time or  
13 for an indefinite time.

14 (7) Revocation of self-insured status. On receiving  
15 evidence that a self-insured motor carrier's financial condition  
16 has changed, that its safety program or record is inadequate, or  
17 that it is otherwise not in compliance with this subchapter, the  
18 department may at any time require the self-insured to provide  
19 additional information. On 10 days notice from the department,  
20 the self-insured shall appear and demonstrate that it continues  
21 to have adequate financial resources to pay all claims involving  
22 motor vehicles for bodily injury and property damage liability.  
23 The self-insured shall also demonstrate that it remains in

1 compliance with the requirements of this section and of any  
2 active self-insurance orders issued or adopted by the  
3 department. If an applicant fails to comply with this  
4 paragraph, its self-insured status may be revoked.

5 (8) Appeal. An applicant may appeal a denial or  
6 revocation of self-insurance status by filing a petition for an  
7 administrative hearing in accordance with §§1.21 et seq. of this  
8 title (relating to Procedures in Contested Cases).

9 (e) Filing proof of insurance with the department.

10 (1) Forms.

11 (A) A motor carrier, other than a Type B household  
12 goods carrier, shall file and maintain proof of automobile  
13 liability insurance for all vehicles required to be registered  
14 under this subchapter at all times. This proof shall be filed  
15 on a form acceptable to the director.

16 (B) A household goods carrier shall file and maintain  
17 proof of cargo insurance for its cargo at all times. This proof  
18 shall be on a form acceptable to the director.

19 (C) A tow truck company that performs nonconsent tows  
20 shall file and maintain with the department proof of on-hook  
21 cargo insurance for all nonconsent tows. This proof shall be on  
22 a form acceptable to the director.

23 (2) Filing proof of insurance and financial

1 responsibility. A motor carrier's insurance or surety company,  
2 bank, or other financial institution shall file and maintain  
3 proof of insurance or financial responsibility on a form  
4 acceptable to the director:

5 (A) at the time of the original application for motor  
6 carrier certificate of registration;

7 (B) on or before the cancellation date of the insurance  
8 coverage as described in subsection (f) of this section;

9 (C) when the motor carrier changes insurers;

10 (D) when the motor carrier asks to retain the  
11 certificate number of a revoked certificate of registration;

12 (E) when the motor carrier changes its name under  
13 §18.13(f)(2) of this subchapter;

14 (F) when the motor carrier, under subsection (a) of  
15 this section, changes the classification of the cargo being  
16 transported; and

17 (G) when replacing another active insurance filing.

18 (3) Filing fee. Each certificate of insurance or proof  
19 of financial responsibility filed with the department for the  
20 coverage required under this section shall be accompanied by a  
21 nonrefundable filing fee of \$100. This fee applies both when  
22 the carrier submits an original application and when the carrier  
23 submits a supplemental application when retaining a revoked

1 certificate of registration number.

2           (4) Acceptable filings. [~~Other bonds, policies or~~  
3 ~~certificates.~~] The department will not accept an [~~a surety~~  
4 ~~bond,~~] insurance policy[~~r~~] or certificate of insurance unless it  
5 is issued by an insurance [~~or surety~~] company licensed and  
6 authorized to do business in the State of Texas. It must be in  
7 a form prescribed or approved by the DOI and signed or  
8 countersigned by an authorized agent of the insurance [~~or~~  
9 ~~surety~~] company. The department will accept a certificate of  
10 insurance issued by a surplus lines insurer that meets the  
11 requirements of Insurance Code, Article 1.14-2, and rules  
12 adopted by the DOI under that article.

13           [~~(5) Letters of credit as proof of financial~~  
14 ~~responsibility for Type B household goods carriers.~~]

15           [~~(A) The department will accept an irrevocable letter~~  
16 ~~of credit if it is issued by a bank or financial institution~~  
17 ~~whose deposits are guaranteed by the Federal Deposit Insurance~~  
18 ~~Corporation. A letter of credit filed by a carrier must be~~  
19 ~~signed or countersigned by an officer of the bank or financial~~  
20 ~~institution and must comply with the following provisions at a~~  
21 ~~minimum.~~]

22           [~~(i) The beneficiaries of the letter of credit must~~  
23 ~~be designated clearly as cargo loss or damage claimants of the~~

1 ~~carrier. No other parties may have rights of recovery against~~  
2 ~~the letter of credit. Payments under the letter of credit must~~  
3 ~~be made directly to the cargo loss or damage claimant. A~~  
4 ~~qualified beneficiary must establish and perfect its claims by~~  
5 ~~having agreed with the motor carrier in writing on a specific~~  
6 ~~amount to be paid in final settlement of the claim or by having~~  
7 ~~obtained a final judgment rendered by a court of competent~~  
8 ~~jurisdiction establishing the motor carrier's liability and the~~  
9 ~~amount of that liability.]~~

10 ~~[(ii) The letter of credit may not be revoked until~~  
11 ~~after settlement of all claims arising during the time the~~  
12 ~~carrier had authority from the department to use the letter of~~  
13 ~~credit to satisfy cargo insurance requirements of this section.~~  
14 ~~Claims must be filed with the household goods carrier within 90~~  
15 ~~days after delivery of the property or, in case of failure to~~  
16 ~~make delivery, within 90 days after reasonable time for delivery~~  
17 ~~has elapsed. A lawsuit must be instituted within two years and~~  
18 ~~one day from the day when written notice is given by the~~  
19 ~~household goods carrier to the claimant that part or all of the~~  
20 ~~claim has been disallowed. When a claim is not filed or a suit~~  
21 ~~is not instituted as specified in this clause, a household goods~~  
22 ~~carrier shall not be held liable.]~~

23 ~~[(iii) The letter of credit must state that the bank~~

1 ~~or financial institution will notify the department of~~  
2 ~~cancellation of or any change in the letter of credit.]~~

3 ~~[(B) The carrier shall provide the department with~~  
4 ~~copies of an amendment or successor letter of credit no later~~  
5 ~~than 30 days before the amendment or successor letter goes into~~  
6 ~~effect. Any change in the terms of the letter of credit must be~~  
7 ~~given prior approval by the department. Draw downs may be made~~  
8 ~~only to satisfy claims for cargo loss or damage, and any draw~~  
9 ~~down from the letter of credit must be reported immediately to~~  
10 ~~the department if it is not replenished within seven days.]~~

11 ~~[(C) The department retains the authority to terminate~~  
12 ~~the letter of credit filing at any time if it appears to the~~  
13 ~~department that the carrier's letter of credit fails to provide~~  
14 ~~satisfactory protection for shippers or if the carrier fails to~~  
15 ~~timely file any of the information required by the department.]~~

16 ~~[(D) On receiving evidence that the letter of credit is~~  
17 ~~no longer adequately funded, that the financial condition of a~~  
18 ~~carrier with a letter of credit filing has changed, or that the~~  
19 ~~carrier is otherwise not in compliance with this subchapter, the~~  
20 ~~department may at any time require the carrier to provide~~  
21 ~~additional information. On 10 days notice from the department,~~  
22 ~~the carrier shall appear and demonstrate that it continues to~~  
23 ~~have adequate letter of credit funding to pay all claims~~

1 ~~involving cargo loss or damage liability and that it remains in~~  
2 ~~compliance with the requirements of this section. The~~  
3 ~~department may revoke the letter of credit filing if a carrier~~  
4 ~~fails to demonstrate adequate letter of credit funding to pay~~  
5 ~~all claims involving cargo loss or damage or fails to comply~~  
6 ~~with any requirement of this section.]~~

7           ~~[(E) A carrier may appeal a denial or revocation of a~~  
8 ~~letter of credit filing by filing a petition for an~~  
9 ~~administrative hearing in accordance with §§1.21 et seq. of this~~  
10 ~~title (relating to Procedures in Contested Cases).]~~

11           (f) Cancellation of insurance coverage. Except when  
12 replaced by another acceptable form of insurance coverage or  
13 proof of financial responsibility approved by the department, no  
14 insurance coverage[, ~~surety bond, or letter of credit~~] shall be  
15 canceled or withdrawn until 30 days after notice has been given  
16 to the department by the insurance [~~or surety~~] company [~~or by~~  
17 ~~the bank or financial institution~~] in a form approved by the  
18 department. Nonetheless, proof of insurance coverage for a  
19 seven day or 90 day certificate of registration may be canceled  
20 by the insurance company without 30 days notice if the  
21 certificate of registration is expired, suspended, or revoked,  
22 and the insurance company provides a cancellation date on the  
23 proof of insurance coverage. The department will revoke a

1 certificate of registration under \$18.72 of this chapter for  
2 failure to maintain proof of current insurance.

3 (g) Replacement insurance filing. The department will  
4 consider a new insurance filing as the current record of  
5 financial responsibility required by this section if:

6 (1) the new insurance filing is received by the  
7 department; and

8 (2) a cancellation notice has not been received for  
9 previous insurance filings.

10 (h) Insolvency of insurance carrier. If the insurer [~~or~~  
11 ~~surety~~] of a motor carrier becomes insolvent or becomes involved  
12 in a receivership or other insolvency proceeding, the motor  
13 carrier must file [~~may apply for approval of a surety bond,~~  
14 ~~insurance policy, or letter of credit issued by another surety,~~  
15 ~~insurer, bank, or other financial institution by filing~~] an  
16 affidavit with the department. The affidavit must be executed  
17 by an owner, partner, or officer of the motor carrier and show  
18 that:

19 (1) no accidents have occurred and no claims have arisen  
20 during the insolvency of the insurance carrier [~~, surety, bank,~~  
21 ~~or other financial institution~~]; or

22 (2) all claims have been satisfied.

23 (i) Notifications. The department shall notify the Texas

1 Department of Public Safety and other law enforcement agencies  
2 of each motor carrier whose certificate of registration has been  
3 revoked for failing to maintain liability insurance coverage.

4  
5 §18.17. Single State Registration System.

6 (a) Applicability. The State of Texas, through the  
7 department, participates in the single state registration system  
8 established by §4005 of Title IV of the Intermodal Surface  
9 Transportation Efficiency Act of 1991, 49 USC §14504, and  
10 Transportation Code, Chapter 645. A for-hire interstate carrier  
11 that is not registered under the single state registration  
12 system and is exempt from economic regulation by the Federal  
13 Motor Carrier Safety Administration under the Interstate  
14 Commerce Act shall register pursuant to Transportation Code,  
15 Chapter 643, and §18.13 of this subchapter.

16 (1) An interstate carrier must file with the department  
17 an application to register for all states of travel as required  
18 by 49 USC §14504 before beginning operations in Texas if the  
19 carrier has its principal place of business:

20 (A) in Texas; or

21 (B) outside a participating state and selects Texas as  
22 its registration state under 49 CFR §367.3.

23 (2) An interstate carrier that is authorized by the

1 Federal Motor Carrier Safety Administration to transport  
2 passengers or property and that must register in a state other  
3 than Texas must fully comply with 49 USC §14504 before operating  
4 in Texas.

5 (3) If an applicant's principal place of business is  
6 located outside a participating state, the applicant shall apply  
7 for registration in the state in which the applicant will  
8 operate the largest number of motor vehicles during the next  
9 registration year. The applicant may choose a registration  
10 state from participating states in which it will operate an  
11 equal number of vehicles if it will not operate a larger number  
12 in any other participating state.

13 (b) Initial application for single state registration. An  
14 application for single state registration must be made with the  
15 department's Motor Carrier Division on a form approved by the  
16 director. All information provided to the department must agree  
17 with information in the most recent Federal Motor Carrier Safety  
18 Administration certificate or permit issued to the applicant.

19 (1) Additional materials. An application must contain  
20 the following [~~be accompanied by~~]:

21 (A) information concerning all vehicles, whether owned  
22 or leased, that the applicant or registrant operates under  
23 Federal Motor Carrier Safety Administration (FMCSA) authority;

1 ~~[a copy of the applicant's full interstate authority, unless the~~  
2 ~~department waives this requirement as described in paragraph (3)~~  
3 ~~of this subsection;]~~

4 (B) a statement whether the applicant will be  
5 transporting hazardous commodities in interstate or foreign  
6 commerce; and ~~[a copy of Federal Motor Carrier Safety~~  
7 ~~Administration form BOC-3, prescribed by 49 CFR, Part 366;]~~

8 (C) applicable fees payable under subsection (i) of  
9 this section. ~~[information on a form prescribed by the director~~  
10 ~~of the Motor Carrier Division concerning all vehicles, whether~~  
11 ~~owned or leased, that the applicant or registrant operates under~~  
12 ~~Federal Motor Carrier Safety Administration authority;]~~

13 ~~[(D) a statement whether the applicant will be~~  
14 ~~transporting hazardous commodities in interstate or foreign~~  
15 ~~commerce;]~~

16 ~~[(E) applicable fees payable under subsection (i) of~~  
17 ~~this section; and]~~

18 ~~[(F) proof of insurance showing the applicant's~~  
19 ~~business address as specified in subsection (j) of this~~  
20 ~~section;]~~

21 (2) Requirements regarding principal place of business.  
22 An interstate carrier's principal place of business for  
23 registration is the business address the interstate carrier

1 indicated on the order issued by the Federal Motor Carrier  
2 Safety Administration or the business address reported by the  
3 registrant to the Federal Motor Carrier Safety Administration as  
4 a change of address.

5           ~~[(A)]~~ The registrant must provide a physical address  
6 and may not provide only a post office box. The registrant may  
7 provide a second address, including a post office box, for use  
8 solely as a mailing address. An applicant domiciled in a rural  
9 area that does not have a street address may submit a rural  
10 route with a box number.

11           ~~[(B) An applicant may change its registration state~~  
12 ~~under subsection (c)(3) of this section.]~~

13           ~~[(3) Waiver of filing complete Federal Motor Carrier~~  
14 ~~Safety Administration authority. If the Federal Motor Carrier~~  
15 ~~Safety Administration authority is longer than 20 pages, the~~  
16 ~~department will waive the filing of the complete authority. In~~  
17 ~~that case the applicant must:]~~

18           ~~[(A) provide the department a copy of the portion of~~  
19 ~~the Federal Motor Carrier Safety Administration order that~~  
20 ~~includes the service date and order section; and]~~

21           ~~[(B) file a prepared synopsis of the Federal Motor~~  
22 ~~Carrier Safety Administration authority.]~~

23           (3) ~~[(4)]~~ Documents improperly filed. If an applicant

1 files or causes to be filed any document that contains any  
2 misrepresentation, misstatement, or omission of required  
3 information or that does not include the payment of fees, the  
4 document will be deemed incomplete and will not be processed by  
5 the department until all items have been corrected.

6 (c) Registration issuance. The department will mail a  
7 registration receipt to an applicant that meets the requirements  
8 of this section and whose registration is approved. The  
9 registration receipt qualifies the registrant to operate under  
10 its Federal Motor Carrier Safety Administration certificate or  
11 permit in all jurisdictions indicated.

12 (d) Registration receipts. A registration receipt becomes  
13 effective on the date specified on the receipt and expires on  
14 the 31st day of December of the registration year for which it  
15 was issued. A registrant must retain its original registration  
16 receipt at its principal place of business for three years.

17 (1) Copies. A copy of the registration receipt, to be  
18 provided by the registrant, shall be carried in each motor  
19 vehicle for which the registrant has paid the applicable fees.  
20 On demand, the driver of a motor vehicle shall present a copy of  
21 a registration receipt for inspection by any department  
22 certified inspector in accordance with §18.31 of this chapter or  
23 any other authorized government personnel for inspection.

1           (2) Alterations of registration receipts. The department  
2 may revoke the registration of an interstate carrier that alters  
3 its registration receipt. Any law enforcement officer is  
4 authorized to confiscate the altered copy on sight. The  
5 confiscated registration receipt shall be returned to the  
6 department after any court action is completed by the state in  
7 which it was confiscated.

8           (3) Transfer of registration receipts between vehicles.  
9 A registration receipt may be transferred from a vehicle taken  
10 out of service to the registrant's replacement vehicle.

11           (4) Lost or stolen registration receipts. If the  
12 registrant fails to receive a receipt mailed by the department  
13 or if a registration receipt is otherwise lost, stolen, or  
14 destroyed, a registrant may request a replacement registration  
15 receipt, which will be provided without charge.

16           (e) Amendments and corrections after original registration.

17           (1) Any time a registrant is issued new FMCSA operating  
18 authority, order, or re-entitlement or if any amendments or  
19 revisions are made by the FMCSA to the registrant's authority  
20 and operations, the registrant must contact the department to  
21 request a new registration receipt. [~~Federal Motor Carrier~~  
22 ~~Safety Administration amendments and revisions.~~ A registrant  
23 ~~shall file a supplemental application with the department if the~~

1 ~~registrant is issued new Federal Motor Carrier Safety~~  
2 ~~Administration operating authority, order, or re-entitlement or~~  
3 ~~if any amendments or revisions are made by the Federal Motor~~  
4 ~~Carrier Safety Administration to the registrant's authority and~~  
5 ~~operations. A copy of these documents shall be provided to the~~  
6 ~~department as soon as they are issued.]~~

7           (2) Change of registrant name. If a registrant changes  
8 its name and a re-entitlement is issued by the FMCSA, the  
9 registrant must contact the department to request a new  
10 registration receipt. [~~If the registrant changes its name other~~  
11 ~~than by transferring ownership, the registrant shall submit a~~  
12 ~~request for a name change on a form prescribed by the director.~~  
13 ~~The registrant shall submit to the department a copy of the re-~~  
14 ~~entitlement issued by the Federal Motor Carrier Safety~~  
15 ~~Administration. A registrant shall also furnish proof of~~  
16 ~~insurance in the new name.]~~

17           (3) Change of registration state. A registrant's  
18 registration state may be changed only if the registrant changes  
19 its principal place of business or if its existing registration  
20 state ceases to participate in the single state registration  
21 system.

22           (A) If the registrant changes its principal place of  
23 business to a non-participating state, it shall retain the

1 current registration state designation for registration purposes  
2 and file notice of a business address change in the form of a  
3 copy of a letter from the interstate carrier to the Federal  
4 Motor Carrier Safety Administration and shall also submit a new  
5 proof of insurance filing in its registration state.

6 (B) If a registrant changes its principal place of  
7 business to another participating state, the registrant shall:

8 (i) notify its current registration state and the new  
9 registration state within 30 days after making its selection;

10 (ii) notify its insurer immediately; and

11 (iii) file in the new registration state all the  
12 documents required of a new registrant.

13 (C) If a registrant changes its principal place of  
14 business during a registration period and that change affects  
15 its reciprocity status, the registrant will not be given a  
16 credit or refund for fees paid for that registration period.  
17 The current registration state will use the new principal place  
18 of business when determining fees for additional states of  
19 travel or equipment.

20 (4) Transfer of ownership. When Federal Motor Carrier  
21 Safety Administration authority is transferred to a new owner,  
22 the current registrant shall notify the department in writing to  
23 cancel its registration, and the new owner shall register with

1 the department in accordance with this section.

2 (5) Other conditions requiring supplemental application.

3 A supplemental application shall be filed if there is:

4 (A) an addition of equipment; or

5 (B) an addition of states of travel [~~+~~~~or~~]

6 [~~(C) a change of designated process agent for any~~  
7 ~~state~~].

8 (6) Additional vehicles. A registrant may not operate  
9 more vehicles in any participating state than the number for  
10 which fees have been paid.

11 (7) Failure to update process agent. If a registrant  
12 fails to file [~~a supplemental application reflecting~~] a change  
13 in its process agent with the FMCSA, the department may suspend  
14 its registration under §18.72 of this chapter.

15 (f) Correction of application form. To correct an  
16 application form, an interstate carrier may notify the  
17 department in writing or correct the application returned by the  
18 department.

19 (g) Cancellation of registration. At the written request  
20 of a registrant, the department will cancel the interstate  
21 carrier's registration.

22 (h) Expiration and renewal of registration.

23 (1) Expiration. Registrations issued under this section

1 are valid for the period beginning January 1 and ending December  
2 31 or for any portion of that period. If registration is for a  
3 fraction of a year, the registration fee will not be pro-rated.

4 (2) Renewal. To renew an interstate carrier's  
5 registration, a registrant must follow the procedure outlined in  
6 subsection (b) of this section before December 1st of the  
7 existing registration period. The department will mail or send  
8 electronically a renewal notice to each registrant between  
9 August 1 and November 30 of the existing registration period.  
10 Failure to receive the notice does not relieve the registrant of  
11 the responsibility to renew.

12 [~~(A) To renew its registration, a registrant need not~~  
13 ~~refile a full copy of its Federal Motor Carrier Safety~~  
14 ~~Administration authority.]~~

15 [~~(B) An applicant must attach to its renewal~~  
16 ~~application copies of additional authority grants, re-~~  
17 ~~entitlements, transfer orders, or grants of self-insurance~~  
18 ~~issued by the Federal Motor Carrier Safety Administration to the~~  
19 ~~extent that those documents have not been previously filed with~~  
20 ~~the department.]~~

21 [~~(3) Renewal fee. All renewal applications shall be~~  
22 ~~accompanied by the appropriate fees as specified in department~~  
23 ~~Form RS-2.]~~

1 (i) Payment of Fees.

2 (1) Fees must be paid as specified in §18.15 of this  
3 subchapter.

4 (2) If an applicant has evidence that any fees collected  
5 or charged on or before November 15, 1991, were different from  
6 the fees specified in the department's Form RS-1A, the applicant  
7 shall submit the evidence to the department with the  
8 application. After considering the submission, the department  
9 will notify the applicant or registrant if the proper fee has  
10 not been paid. Each participating state, in computing the  
11 appropriate portion of the revenue due the department for its  
12 registrants, may use the department's Form RS-2 to determine the  
13 registrant's per-vehicle fee.

14 (j) Insurance requirements. The applicant must ensure that  
15 proof of insurance is filed with the FMCSA [~~department~~]. Proof  
16 of insurance must be in accordance with the levels and forms  
17 specified by 49 CFR, Part 387, Subpart C. [~~In all applications,~~  
18 ~~the interstate carrier shall indicate whether proof of insurance~~  
19 ~~will be filed or has been filed with the department and whether~~  
20 ~~the interstate carrier's public liability protection remains~~  
21 ~~effective.~~] A copy of the applicant's public liability policy  
22 with the endorsements attached shall be maintained at the  
23 interstate carrier's principal place of business.

1           (1) Registrant name. Proof of insurance shall be filed  
2 in the full and correct name of the person to whom the  
3 certificate or permit is issued. The registrant's full name  
4 must include, all owner names and any fictitious name or d/b/a.  
5 The name and business address on the proof of insurance must be  
6 identical to the name and business address contained in its  
7 application and in its most recent Federal Motor Carrier Safety  
8 Administration order.

9           (2) Form of proof. Proof of insurance shall be filed as  
10 specified by 49 CFR, Part 387, Subpart C. A "certificate of  
11 insurance" issued by an insurance agent will not be accepted as  
12 proof of insurance.

13           (3) Self insurers. If an applicant has been approved for  
14 self-insurance by the Federal Motor Carrier Safety  
15 Administration, the applicant must indicate the status of such  
16 self-insurance on the application form. The applicant must also  
17 file with the department a copy of the Federal Motor Carrier  
18 Safety Administration order approving a public liability self-  
19 insurance or other public liability security or agreement under  
20 the provisions of 49 CFR, Part 387, Subpart C. The registrant  
21 shall immediately notify the department if the self-insurance  
22 plan is suspended, revoked, or modified by a Federal Motor  
23 Carrier Safety Administration order. Failure to comply may

1 result in the suspension of the registration.

2 (4) Changes in status. A registrant shall immediately  
3 notify the department of all changes in the status of the  
4 registrant's public liability protection.

5 (5) Incorrect or falsified proof of insurance. If an  
6 insurance company notifies the department that information  
7 relating to a registrant's proof of insurance is incorrect or  
8 has been falsified, the department may verify the insurance  
9 information of the insured.

10 (A) If the department finds that incorrect or falsified  
11 filings have been made, the department will notify the  
12 registrant immediately and request new proof of insurance.

13 (B) If new and valid proof of insurance is not  
14 received, the department may initiate a proceeding for  
15 suspension or revocation of a registration, assessment of an  
16 administrative penalty, or both.

17 (6) Cancellation of insurance. On receiving notice of  
18 cancellation of a registrant's proof of insurance, the  
19 department will notify the registrant in writing that its  
20 registration to operate in all states of travel is suspended on  
21 the effective date of the cancellation of the insurance as  
22 specified in 49 CFR §387.317. ~~[The effective date of the~~  
23 ~~cancellation notice for proof of insurance will be computed as~~

1 ~~30 days from the date notice is received by the department. An~~  
2 ~~insurer may not terminate coverage until at least 30 days after~~  
3 ~~the department has received notice of the cancellation.]~~

4 (A) If insurance lapses because a proof of insurance  
5 has not been filed with the correct name and business address,  
6 the interstate carrier's registration will be suspended until  
7 proper proof of insurance is filed with the department.

8 (B) When sufficient proof of insurance or other proof  
9 of compliance is filed and in effect after a suspension of the  
10 registration, the department will immediately reinstate the  
11 interstate carrier's registration and notify the registrant that  
12 its registration is restored.

13 [~~(k) Electronic filings. The department may elect to~~  
14 ~~receive or verify electronic filings of proof of insurance.]~~

15  
16 [~~§18.18. Temporary Registration of International Motor~~  
17 ~~Carriers.]~~

18 [~~(a) Registration. In lieu of registering under §18.13 of~~  
19 ~~this title (relating to Application for Motor Carrier~~  
20 ~~Registration), an international motor carrier may apply for~~  
21 ~~temporary registration in accordance with the provisions of this~~  
22 ~~section.]~~

23 [~~(b) Application and issuance of registration stamp.]~~

1           ~~[(1) Place of application. An international motor~~  
2 ~~carrier may apply to an insurance agent for international~~  
3 ~~temporary registration.]~~

4           ~~[(2) Issuance. The insurance agent shall issue temporary~~  
5 ~~registration upon the international motor carrier:]~~

6           ~~[(A) providing proof of insurance at or above the~~  
7 ~~levels required by §18.16(a) and (b) of this title (relating to~~  
8 ~~Insurance Requirements); and]~~

9           ~~[(B) paying a fee of \$10 for each commercial motor~~  
10 ~~vehicle or tow truck to be operated in this state.]~~

11           ~~[(3) Registration stamp. Upon compliance with paragraph~~  
12 ~~(1) of this subsection, the insurance agent will issue the~~  
13 ~~carrier an international registration stamp which will be valid~~  
14 ~~for one trip of no more than seven days in duration.]~~

15           ~~[(4) Use of stamp. The international registration stamp~~  
16 ~~shall be affixed to the temporary insurance policy, and shall be~~  
17 ~~carried in the vehicle at all times.]~~

18           ~~[(c) Insurance agents.]~~

19           ~~[(1) Purchase of stamps. An insurance agent may obtain~~  
20 ~~international registration stamps from the department upon~~  
21 ~~filing, in a form prescribed by the director, evidence of a~~  
22 ~~master liability policy. The department will assign an~~  
23 ~~identification number to the policy and to all stamps issued~~

1 ~~under the policy. Stamps may be obtained, in lots of five~~  
2 ~~stamps per lot, either:]~~

3 ~~[(A) by purchase, at a cost of \$10 per stamp, or]~~

4 ~~[(B) by consignment, with monies collected upon the~~  
5 ~~sale of the stamps to be remitted to the department as provided~~  
6 ~~in paragraph (4) (B) of this subsection.]~~

7 ~~[(2) Consignment.]~~

8 ~~[(A) Qualifications. Only insurance agents who are~~  
9 ~~duly licensed by the Texas Department of Insurance and who~~  
10 ~~maintain evidence of master insurance policies on file with the~~  
11 ~~department may obtain and sell international registration stamps~~  
12 ~~on consignment from the department.]~~

13 ~~[(B) Surety bond. An insurance agent selling~~  
14 ~~international registration stamps on consignment shall file a~~  
15 ~~surety bond, in a form approved by the department, issued by a~~  
16 ~~corporate surety authorized to do business in this state. The~~  
17 ~~bond shall ensure the return of all unused stamps, and shall~~  
18 ~~ensure full timely remittance of monies collected on the sale of~~  
19 ~~stamps. The amount of the bond shall be at least two times the~~  
20 ~~total value of stamps held on consignment at any given time.~~  
21 ~~Written notice of renewal of a bond shall be given to the~~  
22 ~~department before international registration stamps may be taken~~  
23 ~~on consignment from the department.]~~

1           ~~[(3) Recordkeeping.]~~

2           ~~[(A) For each international registration stamp sold by~~  
3 ~~an insurance agent, the agent shall record, on a form approved~~  
4 ~~by the director:]~~

5           ~~[(i) the name of the motor carrier to whom the stamp~~  
6 ~~is issued:]~~

7           ~~[(ii) the vehicle identification number, and the~~  
8 ~~year, make, and license number of the vehicle for which the~~  
9 ~~stamp is issued:]~~

10           ~~[(iii) the date of sale:]~~

11           ~~[(iv) the port of entry:]~~

12           ~~[(v) the trip policy number, and]~~

13           ~~[(vi) the effective period of the temporary insurance~~  
14 ~~policy.]~~

15           ~~[(B) Within 30 days of the sale of a stamp to a~~  
16 ~~carrier, the agent shall submit to the department evidence of~~  
17 ~~the sale, including the information required by subparagraph (A)~~  
18 ~~of this paragraph.]~~

19           ~~[(4) Fees.]~~

20           ~~[(A) Charge. An insurance agent may not charge an~~  
21 ~~international motor carrier more than \$10 for each international~~  
22 ~~registration stamp.]~~

23           ~~[(B) Sale on consignment. An insurance agent selling~~

1 ~~international registration stamps on consignment shall remit to~~  
2 ~~the department the fee collected from the sale of a stamp no~~  
3 ~~later than 30 days from the date the stamp is sold. If an~~  
4 ~~insurance agent fails to remit monies to the department by the~~  
5 ~~due date, the department shall discontinue issuing stamps to the~~  
6 ~~agent on consignment, and may seek to enforce payment of the~~  
7 ~~surety bond. No stamp shall be held on consignment for a period~~  
8 ~~exceeding one year from the date of consignment by the~~  
9 ~~department.]~~

10 ~~[(5) Design change. In the event of a design change on~~  
11 ~~international stamps, the department shall redeem all unused~~  
12 ~~stamps sold by the department, and shall exchange for new stamps~~  
13 ~~all unused stamps consigned by the department. If a design~~  
14 ~~change occurs, agents holding unused stamps shall send the~~  
15 ~~stamps to the department for refund or exchange within 60 days~~  
16 ~~after the effective date of the design change. Stamps not~~  
17 ~~returned within the 60-day period are void.]~~

18 ~~[(d) Enforcement of surety bond. The department will seek~~  
19 ~~to enforce payment of the surety bond for failure to return all~~  
20 ~~unused stamps and for failure to pay for all stamps issued on~~  
21 ~~consignment.]~~

1 SUBCHAPTER E. CONSUMER PROTECTION

2 §18.51. Household Goods Agents.

3 (a) Appointment of household goods agent. A household  
4 goods carrier may appoint a household goods agent to represent  
5 the household goods carrier's business interests in Texas.

6 (b) Liability. A household goods carrier is responsible  
7 for the acts, delinquencies, omissions, and conduct of each of  
8 its household goods agents while acting on behalf of the  
9 household goods carrier.

10 (c) Agent filing. A household goods carrier shall file  
11 with the department, on a form approved by the director, a  
12 current, accurate list of its household goods agents and their  
13 addresses.

14 (1) A household goods carrier using alternative vehicle  
15 registration under §18.13(e) of this title (relating to  
16 Application for Motor Carrier Registration) shall notify the  
17 department 30 days prior to the creation or termination of an  
18 agency agreement.

19 (2) A household goods carrier not using the alternative  
20 vehicle registration shall notify the department on or before  
21 January 1, April 1, July 1, and October 1, of each year of the  
22 creation or termination of an agency agreement.

23 (d) Use of household goods carrier's name. When

1 representing a household goods carrier, the agent:

2 (1) shall operate under the name of the represented  
3 household goods carrier, as shown on the certificate of  
4 registration issued by the department;

5 (2) shall use only the moving services contract of the  
6 represented household goods carrier; and

7 (3) may include its name, as listed on the household  
8 goods carrier's agent filing, on the carrier's advertisements.

9 (e) Availability of tariff records. A [~~Type-A~~] household  
10 goods carrier shall require each of its household goods agents  
11 to keep copies of the applicable tariff in the household goods  
12 agent's office and open to public inspection.

13 (f) Shipping records maintained. A household goods agent  
14 shall keep a record of every shipment that it sells or handles  
15 for at least two years after the date of shipment.

16 (g) Agency agreements. An agreement between a household  
17 goods carrier and its household goods agent shall be in writing  
18 and signed by the household goods carrier and the household  
19 goods agent, and copies of any agreement must be kept in the  
20 files of the household goods carrier for a period of not less  
21 than two years following the date of termination of each  
22 agreement.

23

1 §18.58. Moving Services Contract - Options for Carrier

2 Limitation of Liability.

3 (a) General.

4 (1) Household goods shipments transported between points  
5 in Texas shall be subject to all terms and conditions of the  
6 moving services contract, as set forth in §18.57 of this title  
7 (relating to Moving Services Contract), except in cases where  
8 such terms and conditions are in conflict with the laws of the  
9 State of Texas.

10 (2) If a household goods carrier chooses to use  
11 additional limitations of liability on a shipment, the  
12 limitations shall be either of the options specified in  
13 subsections (b) or (c) of this section. A household goods  
14 carrier may not alter or expand on the limitation to its  
15 liability or the exact wording set out in subsections (b) or (c)  
16 of this section. The option selected by the household goods  
17 carrier shall be included with and is part of the moving  
18 services contract.

19 (b) Option 1. If this option is chosen, the following  
20 language must be used verbatim.

21 (1) Section 1 - General Provisions.

22 (A) For the purposes of this subsection, the following  
23 terms will mean:

1 (i) Household goods carrier - the motor carrier/mover  
2 contracted to transport a shipment of household goods.

3 (ii) Shipper - the owner of the household goods  
4 shipment or his representative.

5 (B) Changes to the moving service contract are not  
6 valid unless agreed to in writing by the household goods carrier  
7 and the shipper.

8 (C) Household goods carriers will transport shipments  
9 with reasonable dispatch. Reasonable dispatch requires the  
10 transportation of a shipment within the agreed period of time  
11 shown on the moving services contract, except when circumstances  
12 beyond the carrier's control, force majeure, prevent or delay  
13 transportation.

14 (D) Moving services contracts must comply with all  
15 other applicable laws of the State of Texas.

16 (2) Section 2 - Cargo Liability Provisions.

17 (A) The household goods carrier is liable for any loss  
18 or damage to the shipment, except as listed in subparagraphs (B)  
19 and (C) of this paragraph.

20 (B) The household goods carrier is not responsible for  
21 loss, damage, or delay due to acts of God, acts of civil  
22 authorities, defects in the shipment, a riot, a strike, or an  
23 act or default of the shipper.

1 (C) The household goods carrier is not liable for loss  
2 or damage caused by dangerous or explosive goods unless the  
3 shipper notifies the carrier, in writing, of the nature of the  
4 goods and the carrier agrees, in writing, to the transportation  
5 of these goods.

6 (3) Section 3 - Claims Provisions.

7 (A) A written claim must be filed by the shipper within  
8 90 days of delivery of the shipment to the final destination. In  
9 case of failure to make delivery, then a written claim must be  
10 filed by the shipper within 90 days after a reasonable time for  
11 delivery has elapsed.

12 (B) A household goods carrier is not liable for any  
13 claim that is not filed within 90 days of the delivery of the  
14 shipment to the final destination. A household goods carrier is  
15 not liable for any claim that is not filed within 90 days after  
16 a reasonable time for delivery has elapsed for shipments that  
17 were not delivered.

18 (4) Section 4 - Payment Provisions. The shipper must pay  
19 the freight charges upon delivery unless the shipper and  
20 household goods carrier agree otherwise.

21 (5) Section 5 - Provisions for Shipments Not Delivered.

22 (A) A household goods carrier may place a shipment of  
23 household goods into storage if the shipper is not available for

1 delivery of the goods as scheduled.

2 (B) The cost of such storage is the responsibility of  
3 the shipper of the household goods.

4 (C) A shipment of household goods placed in storage is  
5 subject to liens for storage, freight, and other lawful charges.

6 (D) A household goods carrier must issue written notice  
7 of the storage of the household goods to the shipper at each  
8 address shown on the moving services contract within three days  
9 of placing the goods in storage.

10 (E) If the shipper refuses to accept or does not claim  
11 the household goods within 15 days of the written notice of  
12 storage, the household goods carrier may begin the process of  
13 selling the goods at public sale, as prescribed in  
14 Transportation Code, Chapter 6.

15 (F) A household goods carrier must give written notice  
16 of the public sale to the shipper at each address shown on the  
17 moving services contract.

18 (G) The moving services contract does not prohibit the  
19 sale of the goods under any other lawful manner if the method  
20 set out in the contract cannot be reasonably accomplished.

21 (c) Option 2. If this option is chosen, the following  
22 language must be used verbatim.

23 (1) Section 1 of contract terms and conditions.

1           (A) The household goods carrier or party in possession  
2 of any of the property herein described shall be liable at  
3 common law for any loss thereof or damage thereto, except as  
4 hereinafter provided.

5           (B) No household goods carrier or party in possession  
6 of all or any of the property herein described shall be liable  
7 for any loss thereof or damage thereto or delay caused by an act  
8 of God, the public enemy, the authority of law, or an act or  
9 default of the shipper or owner. The household goods carrier's  
10 liability shall be that of warehouseman only, for loss, damage,  
11 or delay caused by fire occurring after the expiration of the  
12 free time (if any) allowed by tariffs lawfully on file after  
13 notice of the arrival of the property at destination has been  
14 duly sent or given, and after placement of the property for  
15 delivery at destination, or tender of delivery of the property  
16 to the party entitled to receive it, has been made. Except in  
17 case of negligence of the household goods carrier or party in  
18 possession (and the burden to prove freedom from such negligence  
19 shall be on the household goods carrier or party in possession),  
20 the household goods carrier or party in possession shall not be  
21 liable for loss, damage, or delay occurring while the property  
22 is stopped and held in transit upon the request of the shipper,  
23 owner, or party entitled to make such request, or resulting from

1 a defect or inherent vice of the article, including  
2 susceptibility to damage because of atmospheric conditions such  
3 as temperature and humidity or changes therein [~~in the~~  
4 ~~property~~], or from riots or strikes. Except in the case of  
5 household goods carrier's negligence, no household goods  
6 carrier, or party in possession of all or any of the property  
7 herein described, shall be liable for delay caused by highway  
8 obstruction, faulty or impassable highway, or lack of capacity  
9 of any highway, bridge, or ferry, and the burden to prove  
10 freedom from such negligence shall be on the household goods  
11 carrier or party in possession.

12 (C) In case of quarantine the property may be  
13 discharged at the risk and expense of the owner into quarantine  
14 depot or elsewhere, as required by quarantine regulations or  
15 authorities, or for the household goods carrier's dispatch at  
16 the nearest available point in the household goods carrier's  
17 judgment, and in any such case the household goods carrier's  
18 responsibility shall cease when property is so discharged, or  
19 property may be returned by the household goods carrier at the  
20 owner's expense to the shipping point, earning freight both  
21 ways. Quarantine expenses of whatever nature or kind upon or in  
22 respect to property shall be borne by the owner of the property  
23 or the household goods carrier may file a lien. The household

1 goods carrier shall not be liable for loss or damage occasioned  
2 by fumigation or disinfection or other acts required or done by  
3 quarantine regulations or authorities even though the same may  
4 have been done by the household goods carrier's officers, local  
5 agents, or employees, nor for detention, loss, or damage of any  
6 kind occasioned by the quarantine or its enforcement. A  
7 household goods carrier shall not be liable, except in the case  
8 of negligence, for any mistake or inaccuracy in any information  
9 furnished by the household goods carrier, its local agents, or  
10 officers, as to quarantine laws or regulations. The shipper  
11 shall hold the household goods carrier harmless from any expense  
12 it may incur, or damages it may be required to pay, by reason of  
13 the introduction of the property covered by this contract into  
14 any place against the quarantine laws or regulations in effect  
15 at such place.

16 (2) Section 2 of contract terms and conditions.

17 (A) A household goods carrier is not bound to transport  
18 property by any particular scheduled vehicle or in time for any  
19 particular market other than with reasonable dispatch. A  
20 household goods carrier shall have the right, in case of  
21 physical necessity, to forward the property by any household  
22 goods carrier or route between the point of shipment and the  
23 point of destination. In all cases not prohibited by law, where

1 a lower value than actual value has been represented in writing  
2 by the shipper or has been agreed upon in writing as the  
3 released value of the property as determined by the  
4 classification or tariffs upon which the rate is based, such  
5 lower value plus freight charges, if paid, shall be the maximum  
6 amount recovered, whether or not such loss or damage occurs from  
7 negligence.

8 (B) As a condition precedent to recovery, a claim must  
9 be filed in writing with the receiving or delivering household  
10 goods carrier, or the household goods carrier issuing the bill  
11 of lading or receipt, or the household goods carrier on whose  
12 line the loss, damage, injury, or delay occurred, or the  
13 household goods carrier in possession of the property when the  
14 loss, damage, injury, or delay occurred, within 90 days after  
15 delivery of the property or, in case of failure to make  
16 delivery, then within 90 days after a reasonable time for  
17 delivery has elapsed; and suits shall be instituted against any  
18 household goods carrier only within two years and one day from  
19 the day when notice in writing is given by the household goods  
20 carrier to the claimant that the household goods carrier has  
21 disallowed the claim or any of its part or parts specified in  
22 the notice. Where a claim is not filed or a suit is not  
23 instituted in accordance with the foregoing provisions, a

1 household goods carrier hereunder shall not be held liable, and  
2 the claim will not be paid.

3 (C) Any household goods carrier or party liable on  
4 account of loss of or damage to any of the property shall have  
5 the full benefit of any insurance that may have been effected,  
6 upon, or on account of, said property, so far as this shall not  
7 avoid the policies or contracts of insurance; provided, that the  
8 household goods carrier reimburses the claimant for the premium  
9 paid.

10 (3) Section 3 of contract terms and conditions. Except  
11 where such service is required as the result of household goods  
12 carrier's negligence, all property shall be subject to necessary  
13 cooperage and baling at the owner's cost.

14 (4) Section 4 of contract terms and conditions.

15 (A) Property not removed by the party entitled to  
16 receive it within the free time (if any) allowed by tariff  
17 lawfully on file (such free time to be computed as therein  
18 provided), after notice of the arrival of the property at  
19 destination has been duly sent or given, and after tender of the  
20 property for delivery at destination has been made, or property  
21 not received, at time tender of delivery of the property to the  
22 party entitled to receive it has been made, may be kept in  
23 vehicle, warehouse, or place of business of the household goods

1 carrier, subject to the tariff charge for storage and to  
2 household goods carrier's responsibility as warehouseman, only,  
3 or at the option of the household goods carrier, may be removed  
4 to and stored in a public or licensed warehouse at the point of  
5 delivery or other available point, or if no such warehouse is  
6 available at point of delivery or at other available storage  
7 facility, at the cost of the owner and there held without  
8 liability on the part of the household goods carrier, and  
9 subject to a lien for all freight and other lawful charges,  
10 including a reasonable charge for storage. In the event  
11 consignee cannot be found at address given for delivery, notice  
12 of the placing of such goods in warehouse shall be mailed to the  
13 address given for delivery and mailed to any other address given  
14 on the bill of lading or receipt for notification, showing the  
15 warehouse in which the property has been placed.

16 (B) If nonperishable property which has been  
17 transported to destination hereunder is refused by consignee or  
18 the party entitled to receive it upon tender of delivery, or  
19 said consignee or party entitled to receive it fails to receive  
20 or claim it within 15 days after notice of arrival shall have  
21 been duly sent or given, the household goods carrier may sell  
22 the same at public auction to the highest bidder, at such place  
23 as may be designated by the household goods carrier; provided,

1 that the household goods carrier shall have first mailed, sent,  
2 or given to the consignor notice that the property has been  
3 refused or remains unclaimed, as the case may be, and that it  
4 will be subject to sale under the terms of the bill of lading or  
5 receipt if disposition be not arranged for, and shall have  
6 published notice containing a description of the property, the  
7 name of the party to whom consigned, or, if shipped order  
8 notify, the name of party to be notified, and the time and place  
9 of sale, once a week for two successive weeks, in a newspaper of  
10 general circulation at the place of sale or nearest place where  
11 such newspaper is published. Thirty days must elapse after  
12 notice that the property was refused or remains unclaimed was  
13 mailed, sent, or given before notice of sale may be published.

14 (C) If perishable property which has been transported  
15 is refused by the consignee or party entitled to receive it, or  
16 the consignee or party entitled to receive it shall fail to  
17 receive it promptly, the household goods carrier may, in its  
18 discretion, to prevent deterioration or further deteriorations,  
19 sell the same to the best advantage at private or public sale;  
20 provided, that if time serves for notification to the consignor  
21 or owner of the refusal of the property or the failure to  
22 receive it and request for disposition of the property,  
23 notification shall be given, in such manner as the exercise of

1 due diligence requires before the property is sold.

2 (D) If the procedure provided for in this section is  
3 not possible, it is agreed that nothing contained in the section  
4 shall be construed to abridge the right of the household goods  
5 carrier at its option to sell the property under such  
6 circumstances and in such manner as may be authorized by law.

7 (E) The proceeds of the sale shall be applied by the  
8 household goods carrier to the payment of freight, demurrage,  
9 storage, and any other lawful charges and the expense of notice,  
10 advertisement, sale, and other necessary expense and of caring  
11 for and maintaining the property, if proper care requires  
12 special expense. If there is a balance it shall be paid to the  
13 owner of the property.

14 (F) If the household goods carrier is directed by the  
15 consignor or its agent to load property from (or render any  
16 services at) a place or places at which the consignor or its  
17 agent is not present, the property shall be at the risk of the  
18 owner before loading.

19 (G) If the household goods carrier is directed by the  
20 consignee or its agent to unload or deliver property (or render  
21 any services) at the place or places at which the consignee or  
22 its agent is not present, the property shall be at the risk of  
23 the owner after unloading or delivery.

1           (5) Section 5 of contract terms and conditions. A  
2 household goods carrier shall not carry or be liable in any way  
3 for documents, specie, or for articles of extraordinary value  
4 not specifically rated in the published classification or  
5 tariffs unless a special agreement to do so and a stipulated  
6 value of the articles are endorsed.

7           (6) Section 6 of contract terms and conditions. Every  
8 party, whether the principal or local agent, shipping explosives  
9 or dangerous goods, without previous full written disclosure to  
10 the household goods carrier of their nature, shall be liable for  
11 and indemnify the household goods carrier against all loss or  
12 damage caused by the goods, and the goods may be warehoused at  
13 the owner's risk and expense or destroyed without compensation.

14           (7) Section 7 of contract terms and conditions.

15           (A) The owner or consignee shall pay the freight and  
16 all other lawful charges accruing on said property; but, except  
17 in those instances where it may lawfully be authorized to do so,  
18 no household goods carrier shall deliver or relinquish  
19 possession at destination of the property covered by this bill  
20 of lading or receipt until all rates and charges have been paid.  
21 The consignor shall be liable for the freight and all other  
22 lawful charges, except that if the consignor stipulates, by  
23 signature, in the space provided for that purpose on the face of

1 this bill of lading or receipt that the household goods carrier  
2 shall not make delivery without requiring payment of the charges  
3 and the household goods carrier, contrary to such stipulation  
4 shall make delivery without requiring such payment, the  
5 consignor (except as hereinafter provided) shall not be liable  
6 for the charges. Where the household goods carrier has been  
7 instructed by the shipper or consignor to deliver the property  
8 to a consignee other than the shipper or consignor, the  
9 consignee shall not be legally liable for transportation charges  
10 in respect of the transportation of the property (beyond those  
11 billed against him at the time of delivery for which he is  
12 otherwise liable) which may be found to be due after the  
13 property has been delivered to him, if the consignee is an agent  
14 only and has no beneficial title in said property, and prior to  
15 delivery of said property has notified the delivering household  
16 goods carrier in writing of the fact of such agency and absence  
17 of beneficial title, and, in the case of a shipment reconsigned  
18 or diverted to a point other than that specified in the original  
19 bill of lading or receipt, has also notified the delivering  
20 household goods carrier in writing of the name and address of  
21 the beneficial owner of said property; and, in such cases the  
22 shipper or consignor, or, in the case of a shipment so  
23 reconsigned or diverted, the beneficial owner shall be liable

1 for such additional charges.

2 (B) If the consignee has given to the household goods  
3 carrier erroneous information as to whom the beneficial owner  
4 is, such consignee shall be liable for the additional charges.  
5 Nothing herein shall limit the right of the household goods  
6 carrier to require at time of shipment the payment or guarantee  
7 of the charges. If upon inspection it is ascertained that the  
8 articles shipped are not those described in this bill of lading  
9 or receipt, the freight charges must be paid on the articles  
10 actually shipped.

11 (8) Section 8 of contract terms and conditions. If this  
12 bill of lading or receipt is issued on the order of the shipper  
13 or his agent, in exchange or in substitution for another bill of  
14 lading or receipt, the shipper's signature to the prior bill of  
15 lading or receipt as to the statement of value or otherwise, or  
16 election of common law or bill of lading or receipt, in or in  
17 connection with such prior bill of lading or receipt, shall be  
18 considered a part of this bill of lading or receipt as fully as  
19 if the same were written or made in or in connection with this  
20 bill of lading or receipt.

21 (9) Section 9 of contract terms and conditions. Any  
22 alteration, addition, or erasure in this bill of lading or  
23 receipt which shall be made without the special notation herein

1 of the agent of the household goods carrier issuing this bill of  
2 lading or receipt, shall be without effect, and this bill of  
3 lading or receipt shall be enforceable according to its original  
4 tenor.

5

6 §18.63. Annual Report.

7 (a) Submission date. On or before the 15th day of May of  
8 each year, every household goods carrier shall file a copy of  
9 its annual operating report (on a form approved by the director)  
10 with the department. [~~Type B household goods carriers shall~~  
11 ~~file their first annual operating report on or before May 15,~~  
12 ~~1999 and then every subsequent year on or before May 15<sup>th</sup>.~~]

13 (b) Contents. Annual reports shall include, at a minimum,  
14 the following information on intrastate household goods  
15 shipments:

16 (1) the total number of shipments;

17 (2) the total number of claims that resulted in  
18 mediations coordinated by the department; and

19 (3) the total number of claims resolved after a lawsuit  
20 was filed.

21

22 §18.64. Rates.

23 (a) [~~Applicability. This section applies only to Type A~~

1 ~~household goods carriers.]~~

2       ~~(b)~~ Ratemaking. A household goods carrier and/or its  
3 household goods agent shall set maximum rates and charges for  
4 services in its applicable tariff. The household goods carrier  
5 and/or its household goods agent shall disclose the maximum  
6 rates and charges to prospective shippers before transporting a  
7 shipment between two incorporated cities.

8       **(b)** ~~(e)~~ Prohibited charges and allowances. A household  
9 goods carrier and/or its household goods agent shall not charge  
10 more than the maximum charges published in its tariff on file  
11 with the department for services associated with transportation  
12 between two incorporated cities.

13       **(c)** ~~(d)~~ Collective ratemaking agreements.

14       (1) Eligibility. In accordance with Transportation Code,  
15 §643.154, a household goods carrier and/or its household goods  
16 agent may enter into collective ratemaking agreements between  
17 one or more other household goods carriers or household goods  
18 agents concerning the establishment and filing of maximum rates  
19 and charges, classifications, rules, or procedures.

20       (2) Designation of collective ratemaking associations.  
21 An approved association may be designated by a member household  
22 goods carrier as its collective ratemaking association for the  
23 purpose of filing a tariff containing maximum rates and charges

1 required by §18.65 of this title (relating to Tariff  
2 Registration).

3 (3) Submission. In accordance with Transportation Code,  
4 §643.154, a collective ratemaking agreement shall be filed with  
5 the department for approval. The agreement shall include the  
6 following information:

7 (A) full and correct name, business address (street and  
8 number, city, state and zip code), and phone number of the  
9 association;

10 (B) whether the association is a corporation or  
11 partnership; and

12 (i) if a corporation, the government, state, or  
13 territory under the laws of which the applicant was organized  
14 and received its present charter; and

15 (ii) if an association or a partnership, the names of  
16 the officers or partners and date of formation;

17 (C) full and correct name and business address (city  
18 and state) of each household goods carrier on whose behalf the  
19 agreement is filed and whether it is an association, a  
20 corporation, an individual, or a partnership;

21 (D) the name, title, and mailing address of counsel,  
22 officer, or other person to whom correspondence in regard to the  
23 agreement should be addressed; and

1           (E) a copy of the constitution, bylaws, or other  
2 documents or writings, specifying the organization's powers,  
3 duties, and procedures.

4           (4) Signature. The collective ratemaking agreement shall  
5 be signed by all parties subject to the agreement or the  
6 association's executive officer.

7           (5) Incomplete agreement. If the department receives an  
8 agreement which does not comply with this subsection, the  
9 department will send a letter to the individual submitting the  
10 agreement. The letter shall identify the information that is  
11 missing and advise the association that the agreement will not  
12 be processed until the information is received.

13           (6) Approval. In accordance with Transportation Code,  
14 §643.154, the director or designee will approve a collective  
15 ratemaking agreement if the agreement provides that:

16           (A) all meetings are open to the public; and

17           (B) notice of meetings shall be sent to shippers who  
18 are multiple users of household good carriers.

19           (7) Noncompliance.

20           (A) If the director or designee determines that an  
21 agreement does not comply with paragraph (6) of this subsection,  
22 the department will notify the association representative by  
23 certified mail of:

1 (i) the specific reason that an agreement is not  
2 being approved; and

3 (ii) the hearing date.

4 (B) If the association representative resubmits an  
5 acceptable agreement which meets the requirements of paragraph  
6 (6) of this subsection within 10 business days prior to the  
7 hearing date, the hearing will be canceled and the agreement  
8 will be approved. The State Office of Administrative Hearings  
9 (SOAH) shall conduct the hearing in accordance with 43 TAC §1.21  
10 et seq. of this title (relating to Contested Case Procedure).

11 (C) If the hearing is held, the presiding officer shall  
12 explain the reason(s) that the agreement was rejected. The  
13 association representative will be allowed to respond to the  
14 objections and present evidence or exhibits which relate to his  
15 or her response. The hearing examiner, based on the evidence  
16 provided, will make a recommendation to the commission whether  
17 the agreement should be approved or resubmitted. The  
18 association representative shall be advised of the examiner's  
19 recommendation. The final order will be submitted to the  
20 commission for approval.

21 (8) New parties to an agreement. An updated agreement  
22 shall be filed with the department as new parties are added.

23 (9) Amendments to approved agreements. Amendments to

1 approved agreements (other than as to new parties) may become  
2 effective only after approval of the department.

3

4 §18.65. Tariff Registration.

5 (a) [~~Applicability. This section only applies to Type A~~  
6 ~~household goods carriers.~~]

7 [~~(b)~~] Submission. In accordance with Transportation Code,  
8 §643.153, a household goods carrier and/or its household goods  
9 agent shall file a tariff with the department. The tariff shall  
10 establish maximum rates and charges for transportation services  
11 when a highway between two or more incorporated cities, towns or  
12 villages is traversed. A household goods carrier who is not a  
13 member of an approved association under §18.64 of this title  
14 (relating to Rates) shall file a tariff individually. In lieu  
15 of filing individually, a household goods carrier or its  
16 household goods agent, that is a member of an approved  
17 association in accordance with §18.64 of this title (relating to  
18 Rates), may designate a collective association as its ratemaking  
19 association. The association may file a tariff, as required by  
20 this subsection, for member carriers.

21 (1) Contents. The tariff:

22 (A) shall set out all rates, charges, rules,  
23 regulations, or other provisions, in clear and concise terms,

1 used to determine total transportation charges;

2 (B) may provide for the offering, selling, or procuring  
3 of insurance as provided in §18.54 of this title (relating to  
4 Selling Insurance to Shippers);

5 (C) may provide for the base transportation charge to  
6 include assumption by the household goods carrier for the full  
7 value of the shipment in the event a policy or other appropriate  
8 evidence of the insurance purchased by the shipper from the  
9 household goods carrier is not issued to the shipper at the time  
10 of purchase;

11 (D) shall describe the procedure for determining  
12 charges that are below the maximum rate for each service  
13 performed; and

14 (E) shall reference a specific mileage guide or source,  
15 if information on rates and charges based on mileage is included  
16 in the tariff (The referenced mileage guide shall be filed with  
17 the department as an addendum to the tariff. If the household  
18 goods carrier utilizes a computer database as a mileage guide,  
19 the household goods carrier shall allow department personnel  
20 free access to the system when conducting an inquiry regarding a  
21 specific movement performed by the household goods carrier).

22 (2) Interstate tariff. In accordance with Transportation  
23 Code, §643.153, a household goods carrier may satisfy the

1 requirements of this subsection by filing a copy of its tariff  
2 governing interstate household goods transportation services.

3 (3) Transmittal letter. A transmittal letter shall  
4 accompany a tariff being filed. The transmittal letter shall  
5 provide:

6 (A) the name of the household goods carrier;

7 (B) the Texas mailing address and street address of the  
8 household goods carrier's principal office;

9 (C) the household goods carrier's registration number;

10 (D) the name and title of the household goods carrier's  
11 representative authorizing the tariff filing; and

12 (E) whether the tariff is being filed on behalf of a  
13 member carrier.

14 (4) Format. Tariffs shall be filed:

15 (A) on 8 1/2" x 11" paper;

16 (B) with a cover sheet showing:

17 (i) the name of the issuing household goods carrier  
18 or collective ratemaking association;

19 (ii) the Texas mailing and street address;

20 (iii) the issuance date of the tariff;

21 (iv) the effective date of the tariff; and

22 (v) the tariff number; and

23 (C) separated into the following sections:

1 (i) general rules;

2 (ii) accessorial services; and

3 (iii) rates.

4 (5) Item numbers. Individual items shall be titled and  
5 designated by item number.

6 (6) Amendments. Any amendment to a tariff shall be filed  
7 with the department not less than 10 days prior to the effective  
8 date of the amendment. The household goods carrier or  
9 collective ratemaking association filing on behalf of its member  
10 may either file an amended tariff in total or an amendment  
11 referencing the specific sections and items which are being  
12 amended. The amendment format shall be the same as required by  
13 paragraph (4) of this subsection. A transmittal letter  
14 providing the same information as required by paragraph (3) of  
15 this subsection shall accompany the amendment filing.

16 (7) Rejection. The department will reject a tariff or  
17 amendment filing if it is determined the tariff:

18 (A) fails to meet the requirements of this section; or

19 (B) fails to fully disclose, in clear and concise  
20 terms, all rates, charges, and rules.

21 (8) Electronic filings. A household goods carrier may  
22 file an electronic copy of its tariff provided that the document  
23 is consistent with the provision of this subsection and is

1 formatted in Microsoft Word or other format approved by the  
2 director.

3 (b) [~~(e)~~] Operations. The department will accept a tariff  
4 which is in substantial compliance with this section if the  
5 tariff was submitted prior to November 1, 1995.

6 (c) [~~(d)~~] Access. In accordance with Transportation Code,  
7 §643.153, tariffs filed in accordance with this section will be  
8 made available for public inspection at the Motor Carrier  
9 Division, 4203 Bull Creek Road, Building 22, Austin, Texas,  
10 78731, and by calling 1-800-299-1700.

11 (d) [~~(e)~~] Conflicts. All provisions of household goods  
12 carriers' tariffs are superseded to the extent they may conflict  
13 with the provisions of this chapter.

1                   SUBCHAPTER G. VEHICLE STORAGE FACILITIES

2 §18.82. Definitions. The following words and terms, when used  
3 in this subchapter, shall have the following meanings, unless  
4 the context clearly indicates otherwise.

5           (1) Act--The Vehicle Storage Facility Act, Occupations  
6 Code, Chapter 2303, concerning vehicle storage facilities.

7           (2) Abandoned nuisance vehicle--A motor vehicle that is  
8 at least 10 years old and is of a condition only to be  
9 demolished, wrecked, or dismantled.

10           (3) Affidavit of Right of Possession and Control--A form  
11 prescribed by the department and provided by the licensee for  
12 use by an individual certifying right of possession if the  
13 licensee is unable to verify the individual's status as an  
14 immediate family member.

15           (4) Day--Twenty-four continuous hours.

16           (5) Fence--An enclosure of wood, chain link, iron,  
17 concrete, or masonry, placed around an area used to store  
18 vehicles and designed to prevent intrusion and escape.

19           (6) Immediate family--An individual's parents, spouse,  
20 children, brothers, and sisters if they reside in and are  
21 supported by the same household.

22           (7) Impoundment--The following actions when performed on  
23 a stored vehicle:

NOTE: Additions underlined  
Deletions in [    ]  
OGC: 01/24/05 9:30 AM

Exhibit E

1 (A) using materials such as plastic or canvas  
2 tarpaulins to ensure the preservation of a stored vehicle if  
3 doors, windows, convertible tops, hatchbacks, sun roofs, trunks,  
4 or hoods are broken or inoperative;

5 (B) conducting a written inventory of any unsecured  
6 personal property contained in a stored vehicle;

7 (C) removing and storing all unsecured personal  
8 property that is contained in a stored vehicle and for which  
9 safekeeping is necessary; and

10 (D) obtaining motor vehicle registration information  
11 for a specific vehicle directly or indirectly from the  
12 department's Vehicle Titles and Registration Division.

13 (8) Main entrance--The initial point from the public road  
14 onto the private property leading to the vehicle storage  
15 facility at which a consumer or service recipient enters a  
16 vehicle storage facility.

17 (9) Person--An individual, corporation, organization,  
18 business trust, estate, trust, partnership, association, or  
19 other legal entity.

20 (10) Principal--An individual who:

21 (A) holds, whether personally, as a beneficiary of a  
22 trust, or by other constructive means:

23 (i) 10% of a corporation's outstanding stock; or

NOTE: Additions underlined

Deletions in [ ]

OGC: 01/24/05 9:30 AM

Exhibit E

1           (ii) an ownership interest in a business that is  
2 equivalent to a fair market value of more than \$25,000;

3           (B) has the controlling interest in a business;

4           (C) has a participating interest of more than 10% in  
5 the profits, proceeds, or capital gains of a business,  
6 regardless of whether the interest is direct or indirect,  
7 whether it is held through share, stock, or any other manner, or  
8 whether it includes voting rights;

9           (D) holds a position as a member of the board of  
10 directors or other governing body of a business; or

11           (E) holds a position as an elected officer of a  
12 business.

13           (11) Registered owner--Each person in whose name a  
14 vehicle is titled under Transportation Code, Chapter 501, or in  
15 whose name a vehicle is registered under Transportation Code,  
16 Chapter 502.

17           (12) Vehicle--A motor vehicle subject to registration  
18 under Transportation Code, Title 7, Subtitle A, or any other  
19 device designed to be self-propelled or transported on a public  
20 highway.

21           (13) Vehicle owner--A person:

22           (A) in whose name a vehicle is registered under the  
23 Certificate of Title Act, Transportation Code, Chapter 501;

NOTE: Additions underlined

Deletions in [ ]

OGC: 01/24/05 9:30 AM

Exhibit E

1 (B) in whose name a vehicle is registered under  
2 Transportation Code, Chapter 502, or a member of that person's  
3 immediate family;

4 (C) who holds a vehicle through a valid lease  
5 agreement;

6 (D) who is an unrecorded lienholder with a right to  
7 possession; or

8 (E) who is a lienholder that holds an affidavit of  
9 repossession and has the right to repossess a vehicle.

10 (14) Vehicle storage facility (VSF)--A garage, parking  
11 lot, or other facility owned or operated by a person other than  
12 a governmental entity for storing or parking 10 or more vehicles  
13 per year.

14 (15) Vehicle transfer--Any movement of a vehicle out of a  
15 VSF, prior to its release as prescribed in §18.92(a) of this  
16 chapter (relating to Technical Requirements).

17  
18 §18.87. Notifications Regarding Towed Vehicles.

19 (a) Applicability. If a vehicle is removed by the vehicle  
20 owner within 24 hours after the operator receives the vehicle,  
21 notification as described in subsections (b)-(d) of this section  
22 does not apply.

23 (b) Notification to owners of registered vehicles.

1 Registered owners of towed vehicles shall be notified in the  
2 following manner.

3 (1) Vehicles registered in Texas. After accepting for  
4 storage a vehicle registered in Texas, the VSF shall notify the  
5 vehicle's current registered owner and all recorded lienholders  
6 by certified, electronic certified, or registered mail within  
7 five days, but in no event sooner than within 24 hours of  
8 receipt of the vehicle.

9 (2) Vehicles not registered in [~~outside of~~] Texas. After  
10 accepting for storage a vehicle not registered in [~~outside of~~]  
11 Texas, the VSF shall notify the vehicle's current registered  
12 owner and all recorded lienholders within 14 days, but in no  
13 event sooner than within 24 hours of receipt of the vehicle, by:

14 (A) certified, electronic certified mail, or registered  
15 mail; or

16 (B) notice by publication in a newspaper of general  
17 circulation in the county in which the vehicle is stored if:

18 (i) the vehicle is registered in another state;

19 (ii) the operator of the storage facility submits a  
20 written request that is correctly addressed, with sufficient  
21 postage, and is sent by certified mail, or electronic certified  
22 mail, return receipt requested, to the governmental entity with  
23 which the vehicle is registered requesting information relating

1 to the identity of the last known registered owner and any  
2 lienholder of record;

3 (iii) the identity of the last known registered owner  
4 cannot be determined;

5 (iv) the registration does not contain an address for  
6 the last known registered owner; [~~and~~]

7 (v) the operator of the storage facility cannot  
8 reasonably determine the identity and address of each  
9 lienholder; or,

10 (vi) the vehicle does not display a license plate or  
11 a vehicle inspection certificate indicating the state of  
12 registration and the identity and address of the registered  
13 owner and lienholder cannot be reasonably determined by the  
14 operator of the storage facility.

15 (3) It is a defense to an action initiated by the  
16 department for violation of this section that the facility has  
17 attempted unsuccessfully and in writing to obtain information  
18 from the governmental entity with which the vehicle is  
19 registered.

20 (c) Date of notification. Notification will be considered  
21 to have occurred when the United States Postal Service places  
22 its postmark on the written notice or on the date of newspaper  
23 publication of the notice.

NOTE: Additions underlined  
Deletions in [ ]  
OGC: 01/24/05 9:30 AM

Exhibit E

1 (d) Form of notifications. All mailed notifications must  
2 be correctly addressed and mailed with sufficient postage.  
3 Notices published in a newspaper may contain information for  
4 more than one vehicle.

5 (1) All mailed notifications shall state:

6 (A) the full licensed name of the VSF where the motor  
7 vehicle is located, its street address and telephone number, and  
8 the hours the vehicle can be released to the vehicle owner;

9 (B) the daily storage rate, the type and amount of all  
10 other charges assessed, and the statement, "Total storage  
11 charges cannot be computed until vehicle is claimed. The  
12 storage charge will accrue daily until vehicle is released";

13 (C) the date the vehicle will be transferred from the  
14 VSF and the address to which the vehicle will be transferred if  
15 the operator will be transferring a vehicle to a second lot  
16 because the vehicle has not been claimed within a certain time;

17 (D) the date the vehicle was accepted for storage and  
18 from where, when, and by whom the vehicle was towed;

19 (E) the VSF number preceded by the words "Texas  
20 Department of Transportation Vehicle Storage Facility License  
21 Number" or "TxDOT VSF Lic. No.";

22 (F) a notice of the towed vehicle owner's right under  
23 Transportation Code, Chapter 685, to challenge the legality of

1 the tow involved; and

2 (G) the name, mailing address, and toll-free telephone  
3 number of the Motor Carrier Division for purposes of directing  
4 questions or complaints.

5 (2) All published notifications shall state:

6 (A) the full name, street address, telephone number,  
7 and vehicle storage facility license number of the vehicle  
8 storage facility;

9 (B) a description of the vehicle; and

10 (C) the total amount of charges assessed against the  
11 vehicle.

12 (e) Nonconsent towed vehicle towed from private property.  
13 A VSF accepting a nonconsent towed vehicle towed from private  
14 property must report that tow to the local law enforcement  
15 agency for the area from which the vehicle was towed. This  
16 report must be made within two hours of receiving the vehicle.  
17 It must include the vehicle's license plate number and issuing  
18 state, vehicle identification number, and location from which it  
19 was towed. Facility records shall indicate specifically to whom  
20 the stated information was reported and in what manner, as well  
21 as the time and date of the report.

22

23 §18.88. Documentation and Records.

NOTE: Additions underlined  
Deletions in [ ]  
OGC: 01/24/05 9:30 AM

Exhibit E

1 (a) Retention of written documentation. Vehicle storage  
2 facility licensees must maintain written documentation regarding  
3 their operations for a period of two years from the date such  
4 operations occurred. Written documentation shall be in the form  
5 of:

6 (1) motor vehicle registration checks;

7 (2) notification letters;

8 (3) certified return receipts;

9 (4) tow tickets or wrecker slips (if applicable);

10 (5) bills for service;

11 (6) auction receipts;

12 (7) inventory (if applicable);

13 (8) certificates of authority to demolish; and

14 (9) any authorized document used to release a vehicle  
15 (title, affidavit of right of possession and control, court  
16 order, etc.).

17 (b) Combination documents. Provided that the document  
18 contains the minimum information described in subsection (c) of  
19 this section, a licensee may consolidate the information  
20 required into a single document in order to meet record  
21 retention requirements of subsection (a) of this section.

22 Combination documents may consist of:

23 (1) bills for service;

1 (2) inventory records;

2 (3) tow tickets; or

3 (4) wrecker slips (if applicable).

4 (c) Minimum information. Each licensee shall keep written  
5 records on each vehicle kept or stored at the vehicle storage  
6 facility. These records shall contain:

7 (1) the year, make, model, color, correct license plate  
8 number, state issuing the license, and correct vehicle  
9 identification number of the vehicle;

10 (2) the date, time and location from which the vehicle  
11 was towed, and name of person who authorized the tow;

12 (3) the name of the tow truck driver, the name of the  
13 company that towed the vehicle, and the license plate numbers of  
14 plates issued to the tow truck under Transportation Code,  
15 \$502.180, and \$504.508 [~~and former \$502.281~~];

16 (4) the date the vehicle was released, the name of the  
17 individual to whom the vehicle was released, and the type of  
18 identification (Texas drivers license or other state or  
19 federally issued photo identification) and identification number  
20 provided by the individual to whom the vehicle was released;

21 (5) the date of any vehicle transfer, and the address of  
22 the location to which it was transferred along with the name of  
23 the towing company and tow truck driver who made the transfer;

NOTE: Additions underlined  
Deletions in [ ]  
OGC: 01/24/05 9:30 AM

Exhibit E

1 (6) a copy of any certificate of title issued after the  
2 vehicle came into the possession of the vehicle storage  
3 facility, any certificate of authority to demolish, any police  
4 auction sales receipt, or any transfer document issued by the  
5 State of Texas for the vehicle if vehicle ownership has been  
6 transferred due to any action of the vehicle storage facility or  
7 if the vehicle has been disposed of or demolished; and

8 (7) all amounts received at the time the vehicle was  
9 released, including the specific nature of each charge.

10 (d) Nonconsent tow tickets and wrecker slips. The VSF  
11 shall ensure that nonconsent tow tickets and wrecker slips (if  
12 applicable) contain the registered name of the tow truck company  
13 and the certificate of registration number on file with the  
14 department.

15 (e) Availability of documentation. All required  
16 documentation shall be made available by the licensee, the  
17 licensee's agent, or the licensee's employee for inspection and  
18 copying upon request by department personnel, or a certified law  
19 enforcement officer within the officer's jurisdiction, during  
20 the same hours the vehicle storage facility must ensure that  
21 vehicles are available for release to the vehicle owner.

22 (f) Care and custody of records. Required records shall  
23 be kept under the care and custody of the licensee for at least

1 two years from the date the vehicle was received.

2  
3 §18.89. Notice of Complaint Procedure. Each vehicle storage  
4 facility shall notify consumers and service recipients of the  
5 name, mailing address, and telephone number of the department  
6 for purposes of directing complaints regarding vehicle storage  
7 to the department. The licensee may use a legible sticker or  
8 rubber stamp to convey the required information. The notice  
9 [~~notification~~] shall be included on:

10 (1) a sign prominently displayed to the public at the  
11 place of payment, with letters at least one inch in height, and  
12 a contrasting background; and

13 (2) the front page of any bill for service.

14  
15 §18.90. Rights of Owner or Authorized Representative.  
16 (a) A vehicle storage facility must allow a person claiming  
17 to be the owner of a vehicle stored or parked at the facility to  
18 have access to the vehicle's glove compartment, console, or  
19 other interior storage area if documents necessary to establish  
20 the person's identity or ownership of the vehicle are located in  
21 the glove compartment, console, or other interior storage area.

22 (b) When a person demonstrates ownership or right to  
23 possession of a motor vehicle stored at a VSF, the person and

1 his/her authorized representative shall:

2 (1) be entitled to inspect a copy of the tow ticket or  
3 wrecker slip, as described in §18.88 of this subchapter, for the  
4 motor vehicle and shall not be required to pay any fees or  
5 charges before doing so (placing the ticket or slip behind a  
6 glass enclosure for the person to inspect satisfies this  
7 requirement);

8 (2) be given access to, and be allowed to remove, any  
9 personal belongings in the vehicle, unless otherwise indicated  
10 by a certified law enforcement officer (the VSF must require a  
11 receipt from the person to whom the personal belongings are  
12 released for any such property removed from the stored vehicle  
13 by the vehicle owner or authorized representative); and

14 (3) have access, during normal business hours, to the  
15 vehicle for the purposes of insurance and/or repair estimates.

16 (4) have access to the nonconsent towing fees schedule,  
17 as prescribed in §18.103 of this chapter (relating to Required  
18 Posting at Vehicle Storage Facility (VSF)), for the specific  
19 motor carrier involved in the transportation of the vehicle to  
20 the vehicle storage facility.

21

22 §18.91. Facility Requirements.

23 (a) Enclosure and security of stored vehicles.

1 (1) Fencing. If not enclosed by a five foot high fence  
2 on or before September 1, 1985, all vehicle storage facilities  
3 shall be completely enclosed by a fence at least six feet high  
4 with a gate which is locked at all times when the licensee or an  
5 agent or employee is not at the storage lot. No two vehicle  
6 storage facilities may operate within the same fenced area.

7 (2) Security of vehicles.

8 (A) No vehicle may be stored or kept at any licensed  
9 vehicle storage facility unless it is kept inside the fenced or  
10 enclosed area at all times. For purposes of this subsection,  
11 the term "enclosed" shall mean inside a building.

12 (B) A vehicle accepted for storage in a vehicle storage  
13 facility must be secured to prevent theft of the vehicle or its  
14 contents, including but not limited to locking doors, closing  
15 windows and hatchbacks, and raising or covering convertible  
16 tops.

17 (b) Surface. All vehicle storage facilities shall have an  
18 all-weather surface such as concrete, asphalt, black-top, stone,  
19 macadam, limestone, iron ore, gravel, shell, or caliche, that  
20 enables the safe and effective movement of stored vehicles upon  
21 all portions of the lot, both under their own power and under  
22 tow, at all times, regardless of prevailing weather conditions.  
23 The surface shall also be free of overgrown vegetation.

1 (c) Illumination. All vehicle storage facilities shall  
2 maintain illumination levels adequate for nighttime release of  
3 vehicles. The term "adequate" shall mean sufficient to allow  
4 inspection of a vehicle for damage at the time of release. At a  
5 minimum, there must be one lighting fixture containing at least  
6 a 250 watt element for each 1/4 acre of storage area.

7 (d) Signs.

8 (1) Facility information. All vehicle storage facilities  
9 shall have a clearly visible and readable sign at its main  
10 entrance. Such sign shall have letters at least 2 inches in  
11 height, with contrasting background, shall be visible at 10  
12 feet, and shall contain the following information:

13 (A) the registered name of the storage lot, as it  
14 appears on the vehicle storage facility license;

15 (B) street address;

16 (C) the telephone number for the owner to contact in  
17 order to obtain release of the vehicle;

18 (D) the facility's hours, within one hour of which  
19 vehicles will be released to vehicle owners; and

20 (E) the storage lot's state license number preceded by  
21 the phrase "VSF License Number."

22 (2) Per diem charges. All vehicle storage facilities  
23 shall have a sign setting out the per diem charge for storage

NOTE: Additions underlined

Deletions in [ ]

OGC: 01/24/05 9:30 AM

Exhibit E

1 and all other fees which may be charged by the storage lot,  
2 including notification and impoundment fees. The sign shall  
3 include all forms of payments the VSF shall accept for any  
4 charge associated with delivery or storage of a vehicle. This  
5 sign shall be located so it is clearly visible to a vehicle  
6 owner at the place of payment and [~~prior to paying the fees,~~]  
7 shall have letters at least 1 inch in height[~~7~~] with a  
8 contrasting background.

9 (3) Nonconsent towing fees schedule. All vehicle storage  
10 facilities shall conspicuously place a sign, at the place of  
11 payment, that states in 1-inch letters that "Applicable  
12 schedules of nonconsent towing fees will be provided for viewing  
13 upon request by persons claiming vehicles." The nonconsent  
14 towing fees provided for viewing must match the nonconsent  
15 towing fees schedule on file with the department, as provided in  
16 Subchapter H of this chapter (relating to Nonconsent Towing Fees  
17 Schedule).

18 (4) Instruments accepted for release of vehicle. All  
19 vehicle storage facilities shall have a sign describing the  
20 instruments which may be presented by the vehicle owner or  
21 his/her authorized representative to obtain possession of the  
22 vehicle. This sign shall list all instruments as described in  
23 §18.92(a)(3) of this subchapter, and shall also state:

NOTE: Additions underlined  
Deletions in [ ]  
OGC: 01/24/05 9:30 AM

Exhibit E

1 "Affidavit of Right of Possession and Control Furnished Upon  
2 Request." This sign shall be located so it is clearly visible  
3 to a vehicle owner at the place of payment, and have letters at  
4 least 1 inch in height with a contrasting background.

5 (5) Combination signs. A vehicle storage facility may  
6 combine the signs described in §18.89(1) of this subchapter and  
7 paragraphs (2), (3), and (4) of this subsection, provided that  
8 the combination sign meets the requirements of each of the  
9 separate signs.

10 (e) Unregistered tow trucks. No vehicle storage facility  
11 shall permit any tow truck which is not registered under  
12 Transportation Code, Chapter 643, to enter onto the grounds of  
13 the facility.

14  
15 §18.92. Technical Requirements.

16 (a) Release of vehicles. The licensee shall comply with  
17 the following requirements when releasing vehicles.

18 (1) The licensee shall comply with all provisions of  
19 Texas Transportation Code, Chapter 685, relating to the rights  
20 of the owner of a stored vehicle, including providing the name,  
21 address, and telephone number of:

22 (A) the justice court that has ~~[of the peace or~~  
23 ~~magistrate from whose]~~ jurisdiction in the precinct in which the

1 vehicle storage facility is located; and [~~was removed~~]

2 (B) the name, address and telephone number of the  
3 person or law enforcement agency that authorized the tow.

4 (2) The licensee shall provide the owner or the owner's  
5 representative with a tow ticket or wrecker slip as prescribed  
6 in §18.88 of this subchapter.

7 (3) Except as provided in subsection (a)(8) of this  
8 section, the [~~The~~] licensee shall allow the vehicle owner or  
9 his/her authorized representative to obtain possession of the  
10 vehicle at any time between the hours listed on the facility  
11 information sign posted as described in §18.91(d)(1) of this  
12 subchapter, upon payment of all fees due, presentation of valid  
13 identification (Texas drivers license or other state or  
14 federally issued photo identification), and upon presentation  
15 of:

16 (A) a notarized power-of-attorney;

17 (B) a court order;

18 (C) a certificate of title;

19 (D) a tax collector's receipt and a vehicle  
20 registration renewal card accompanied by a conforming  
21 identification;

22 (E) notarized proof of loss claim of theft from an  
23 insurance company to show a right to possession;

NOTE: Additions underlined  
Deletions in [ ]  
OGC: 01/24/05 9:30 AM

Exhibit E

1 (F) positive name and address information corresponding  
2 to that contained in the files of the department's Vehicle  
3 Titles and Registration Division; or

4 (G) a department approved Affidavit of Right of  
5 Possession and Control, as defined in §18.82 of this subchapter,  
6 which is to be furnished by the licensee upon request (an  
7 Affidavit of Right of Possession and Control is not to be used  
8 as a repossession instrument).

9 (4) All vehicle storage facilities shall have vehicles  
10 available for release 24 hours a day within one hour's notice if  
11 it accepts vehicles 24 hours a day.

12 (5) If a vehicle storage facility does not accept  
13 vehicles 24 hours a day, such facility must have vehicles  
14 available for release within one hour between the hours of 8:00  
15 a.m. and midnight Monday-Saturday and from 8:00 a.m. to 5:00  
16 p.m. on Sundays except for nationally recognized holidays. It  
17 is not the intent of this section to require release of vehicles  
18 after midnight, and refusal to release after that time, even  
19 with notice after 11:00 p.m., is not a violation of this  
20 section.

21 (6) In addition to other forms of payment accepted by the  
22 vehicle storage facility, one of the following must be accepted  
23 for any charge associated with delivery or storage of a vehicle:

NOTE: Additions underlined  
Deletions in [ ]  
OGC: 01/24/05 9:30 AM

Exhibit E

1           (A) credit card;

2           (B) debit card; or

3           (C) electronic check.

4           (7) the licensee may not refuse to release the vehicle to  
5 the vehicle's owner due to nonpayment by the law enforcement  
6 agency that directed the towing and storage of the vehicle for  
7 evidentiary or examination purposes.

8           (8) Pursuant to 37 TAC §4.16, relating to commercial  
9 vehicle regulations and enforcement procedures, a commercial  
10 motor vehicle stored at the direction of the Texas Department of  
11 Public Safety shall not be released until the amount of  
12 delinquent administrative penalty assessed against the motor  
13 carrier has been paid.

14           (b) Notification of insurance information. Upon request by  
15 the vehicle owner or the vehicle owner's authorized  
16 representative, the licensee shall provide the name, address,  
17 and telephone number of the insurance company that is providing  
18 required garage keeper's legal liability insurance coverage to  
19 the facility, in addition to the facility's insurance policy or  
20 certificate number for purposes of filing a claim for loss or  
21 damage of property. The insurance information shall be the same  
22 as that on file with the department.

23           (c) Publicly listed telephone number. All vehicle storage

1 facilities shall have a publicly listed and operable telephone  
2 where the licensee can be contacted. If the telephone number is  
3 changed from the number set out in the vehicle storage license  
4 application, the licensee shall give the department written  
5 notice of the change prior to the date the new number is used.  
6 The notice shall include the storage lot's name, its location,  
7 its license number, the old telephone number, and the new  
8 telephone number.

9 (d) Inspection of stored vehicles. When the licensee, the  
10 licensee's agent, or the licensee's employee accepts a vehicle  
11 towed without the vehicle owner's consent, such person shall  
12 inspect the vehicle and note as an addition on the wrecker slip  
13 or wrecker ticket any differences from the information  
14 previously set out thereon, but shall not write over or deface  
15 any prior writing on the slip or ticket. If the license plate  
16 number or vehicle identification number on the wrecker ticket or  
17 wrecker slip are incorrect, the vehicle storage facility shall  
18 note on its records the correct number and notify every  
19 previously advised person within 48 hours of noting the correct  
20 information.

21 (e) Removal of parts; dismantling or demolishing of stored  
22 vehicles. Except as stated to the contrary in this section, no  
23 parts shall be removed from any vehicle, and no vehicle shall be

1 dismantled or demolished within the storage area of a licensed  
2 vehicle storage facility. Vehicles may be dismantled or  
3 demolished only if the storage lot has a certificate of title,  
4 certificate of authority to demolish, police auction sales  
5 receipt, or transfer document issued by the State of Texas for  
6 the vehicle being dismantled or demolished.

7 (f) Use of stored vehicles. No stored vehicle may be  
8 utilized for personal or business use without the written  
9 consent of the vehicle's owner.

10 (g) Reasonable storage efforts. A vehicle storage facility  
11 operator shall make reasonable efforts necessary for the storage  
12 of a vehicle, such as locking doors, rolling up windows, and  
13 closing doors, hatchbacks, sun roofs, trunks, hoods, or  
14 convertible tops. Such actions are included in the storage fee  
15 as set forth in §18.93 of this subchapter.

16 (h) Impoundment of stored vehicles. If doors, windows,  
17 convertible tops, hatchbacks, sun roofs, trunks, or hoods are  
18 broken or inoperative, materials such as plastic or canvas  
19 tarpaulins must be used to ensure the preservation of the stored  
20 vehicle. A vehicle storage facility operator is entitled to  
21 charge a fee for impoundment if, in addition to the requirements  
22 set out in this subsection, the vehicle storage facility  
23 operator, at a minimum:

NOTE: Additions underlined  
Deletions in [ ]  
OGC: 01/24/05 9:30 AM

Exhibit E

1           (1) conducts a written inventory of any unsecured  
2 personal property contained in the vehicle;

3           (2) removes and stores all such property for which  
4 safekeeping is necessary, and specifies such removal and storage  
5 on the written inventory; and

6           (3) obtains motor vehicle registration information for  
7 the vehicle from the department.

8           (i) Repair or alteration of stored vehicles. A vehicle  
9 accepted for storage may not be repaired, altered, or have parts  
10 removed or replaced without the vehicle owner's or his  
11 authorized representative's consent.

12           (j) Vehicle transfers. When a motor vehicle has been  
13 delivered to a vehicle storage facility, the vehicle may not be  
14 moved from that facility within the first 31 days of storage  
15 without the vehicle owner's authorization. If it becomes  
16 necessary to move the vehicle during the first 31 days of  
17 storage because of vehicle storage facility capacity problems,  
18 neither the registered vehicle owner nor recorded lienholder(s)  
19 may be assessed an additional charge. The vehicle storage  
20 facility must send notice in accordance with §18.87 of this  
21 subchapter, except that the notice must be sent no less than 72  
22 hours prior to moving the vehicle. If a vehicle is moved from a  
23 vehicle storage facility, the licensee shall:

NOTE: Additions underlined  
Deletions in [    ] ]  
OGC: 01/24/05 9:30 AM

Exhibit E

1 (1) charge only those fees otherwise permitted by §18.93  
2 of this subchapter after the vehicle is towed to another  
3 location without the vehicle owner's permission;

4 (2) retain records and inform the vehicle owner upon  
5 request of the location where the vehicle is at all times from  
6 the date on which the vehicle is transferred from the vehicle  
7 storage facility until such time as the vehicle is recovered by  
8 the vehicle owner, or a new certificate of title, a certificate  
9 of authority to demolish, a police auction sales receipt, or a  
10 transfer document is issued by the State of Texas; and

11 (3) maintain a record of the ultimate disposition of the  
12 vehicle, including the date and name of the person to whom the  
13 vehicle is released or a description of the document under which  
14 the vehicle was sold or demolished.

15  
16 §18.93. Storage Fees and Charges. The fees outlined in this  
17 section have precedence over any conflicting municipal ordinance  
18 or charter provision.

19 (1) Notification fee.

20 (A) A vehicle storage facility operator may not charge  
21 a vehicle owner more than \$50 [~~\$32~~] for notification under  
22 §18.87 of this subchapter. If a notification must be published  
23 as specified under §18.87 of this subchapter, and the actual

1 cost of publication exceeds 50% of the notification fee, the VSF  
2 operator may recover the additional amount of the cost of  
3 publication. The publication fee is in addition to the  
4 notification fee.

5 (B) If a vehicle is removed by the vehicle owner within  
6 24 hours after the date the operator receives the vehicle,  
7 notification is not required under §18.87 of this subchapter.

8 (C) If a vehicle is removed by the vehicle owner before  
9 notification is sent or within 24 hours from the time the  
10 operator receives the vehicle, the VSF operator may not charge a  
11 notification fee to the vehicle owner.

12 (2) Daily storage fee. A vehicle storage facility  
13 operator may not charge less than \$5.00 or more than \$20 [~~\$15~~]  
14 for each day or part of a day for storage of a vehicle that is  
15 25 feet or less in length. A vehicle storage facility operator  
16 shall charge a fee of \$35 [~~\$30~~] for each day or part of a day  
17 for storage of a vehicle that exceeds 25 feet in length.

18 (A) A daily storage fee may be charged for any part of  
19 the day, except that a daily storage fee may not be charged for  
20 more than one day if the vehicle remains at the vehicle storage  
21 facility less than 12 hours. In this paragraph a day is  
22 considered to begin and end at midnight.

23 (B) A vehicle storage facility operator that has

1 accepted into storage a vehicle registered in this state shall  
2 not charge for more than five days of storage fees until a  
3 notice, as prescribed in §18.87 of this subchapter, is mailed or  
4 published.

5 (C) A vehicle storage facility operator that has  
6 accepted into storage a vehicle not registered in Texas shall  
7 not charge for more than five days before the date the request  
8 for owner information is sent to the appropriate governmental  
9 entity. Such requests shall be correctly addressed, with  
10 sufficient postage, and sent by certified mail, or electronic  
11 certified mail, return receipt requested, to the governmental  
12 entity with which the vehicle is registered requesting  
13 information relating to the identity of the last known  
14 registered owner and any lienholder of record.

15 (D) A vehicle storage facility operator shall charge a  
16 daily storage fee after notice, as prescribed in §18.87 of this  
17 subchapter, is mailed or published for each day or portion of a  
18 day the vehicle is in storage until the vehicle is removed and  
19 all accrued charges are paid.

20 (3) Impoundment fee. A vehicle storage facility operator  
21 may charge a vehicle owner an impoundment fee if impoundment is  
22 performed in accordance with §18.92(h) of this subchapter. The  
23 impoundment fee may not exceed \$20. If the vehicle storage

1 facility operator charges a fee for impoundment, the written  
2 bill for services must specify the exact services performed for  
3 that fee and the dates those services were performed.

4 (4) Governmental or law enforcement fees. A vehicle  
5 storage facility operator may collect from a vehicle owner any  
6 fee that must be paid to a law enforcement agency, the agency's  
7 authorized agent, or a governmental entity.

8 (5) Additional fees. A vehicle storage facility operator  
9 may not charge any additional fees related to the storage of a  
10 vehicle other than fees authorized by this section or a  
11 nonconsent towing fee posted on a nonconsent towing fees  
12 schedule on file with the department and posted at the vehicle  
13 storage facility [~~that are similar to notification or~~  
14 ~~impoundment fees. A vehicle storage facility operator may not~~  
15 ~~charge an administrative fee].~~

16  
17 \$18.96. Disposal of Certain Vehicles.

18 (a) Applicability. A VSF operator may not dispose of a  
19 vehicle unless the operator has complied with all provisions of  
20 the Act, including §§2303.151-2303.154 and 2303.157, concerning  
21 notification and disposal of abandoned vehicles.

22 (b) Notification of proposed disposal. A vehicle storage  
23 facility operator shall notify the registered owner and all

1 recorded lienholders of the proposed disposal of the vehicle in  
2 accordance with §§2303.151-2303.154 of the Act concerning  
3 notification.

4 (c) Notification of abandonment. A vehicle storage facility  
5 operator shall notify law enforcement of the abandonment of the  
6 vehicle in accordance with §2303.154 of the Act.

7 (d) Documentation and records. A vehicle storage facility  
8 operator shall keep complete and accurate records of any vehicle  
9 disposed of under §2303.157 of the Act. These records shall  
10 include:

11 (1) a copy of the VTR-265VSF form or its successor  
12 completed by the vehicle storage facility operator and provided  
13 to the vehicle buyer;

14 (2) copies of all notifications issued to the registered  
15 owner and all recorded lienholders, regardless of whether the  
16 notifications were mailed or published; and

17 (3) a copy of the VTR-71-6 form or its successor  
18 submitted to the department for authority to dispose of and  
19 demolish an abandoned nuisance vehicle.

20 (e) [~~d~~] Public sale. A vehicle storage facility operator  
21 may dispose of a vehicle through a public sale in compliance  
22 with §2303.157 of the Act. Disputes over the sale or dispersal  
23 of proceeds from the sale of the vehicle may be pursued through

1 a court of appropriate jurisdiction.

NOTE: Additions underlined  
Deletions in [ ]  
OGC: 01/24/05 9:30 AM

Exhibit E