

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, and §18.32, relating to insurance requirements for motor carriers, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments, attached to this minute order as Exhibits A - D, 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, and §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. D. Behrens
Executive Director

110778 DEC 14 06

Minute Number Date Passed

1
2 These amendments were initially proposed November 17, 2005,
3 along with other rules regarding motor carrier registration
4 issues. These amendments were removed from the rules as adopted
5 during the April 27, 2006, Texas Transportation Commission
6 (commission) meeting to allow the department time to further
7 study the issue of minimum vehicle liability insurance
8 requirements for household goods carriers who operate vehicles
9 weighing 26,000 pounds or less. However, due to a clerical
10 error the language filed with the *Texas Register* on April 28,
11 2006, for §18.16(a) Figure 1 was not amended to reflect the
12 language adopted by the commission. The language in Figure 1,
13 regarding the minimum liability insurance level for household
14 goods carriers under 26,000 pounds was not approved by the
15 commission and is not being enforced by the department. The
16 language now adopted for Figure 1 is the same language that is
17 currently published in 43 TAC §18.16(a).

18
19 To study the minimum liability insurance issues, the department
20 has contacted other states, gathered insurance information,
21 reviewed traffic accident studies, contacted the Texas
22 Department of Public Safety and the Department of Insurance
23 regarding vehicle loss records, contacted the Federal Motor
24 Carrier Safety Administration concerning crash data, collected
25 data from the National Institute for Occupational Safety and

1 Health and Insurance Institute for Highway Safety, and conducted
2 a public hearing. The information gathered from these resources
3 was used to draft these adopted amendments.

4
5 Throughout the rules, all references to "Type A" and "Type B"
6 household goods carriers are deleted.

7
8 The definition for "Type B" household goods carrier has been
9 deleted from §18.2 as it is no longer necessary under
10 Transportation Code, Chapter 643.

11
12 Amended language in §18.2, §18.13, and §18.16 changes a
13 statutory citation to conform to current law.

14
15 Amended language in §18.13(i) deletes the reference to the
16 alternative registration process for Type B carriers. These
17 alternatives are no longer authorized by the statute due to the
18 changes in Transportation Code, §643.051 and §643.153.

19
20 Section 18.16(a), relating to automobile liability insurance
21 requirements, is amended to establish a minimum liability
22 insurance requirement for vehicles weighing 26,000 pounds or
23 less that are operated by household goods carriers as required
24 by the statutory changes. Transportation Code, §643.101
25 requires that a motor carrier required to register under

1 Subchapter B shall maintain liability insurance in an amount set
2 by the department for each vehicle the carrier operates
3 requiring registration. Pursuant to Transportation Code,
4 §643.101(b), the department is to consider the class and size of
5 the vehicle and the persons or cargo transported in setting the
6 insurance requirement. The rules set the minimum level of
7 liability insurance for household goods carriers with gross
8 weight of 26,000 pounds or less at \$300,000 combined single
9 limit (CSL). This figure was selected based on the research
10 conducted by the Motor Carrier Division, which is summarized
11 below.

12
13 In 1995 the department required motor carriers to maintain a
14 minimum liability insurance of \$500,000 CSL for commercial
15 vehicles over 26,000 pounds operated in Texas. Household goods
16 carriers operating vehicles 26,000 pounds or less were not
17 required to register as motor carriers under the same provisions
18 and therefore, the department was not required to establish a
19 minimum insurance requirement. These types of household goods
20 carriers were required to maintain the minimum liability
21 insurance levels required of all vehicles under Transportation
22 Code, §601.072. Transportation Code, §601.007 exempts vehicles
23 that are required to register under Transportation Code,
24 §643.051 from the liability requirements of Transportation Code,
25 Chapter 601.

1
2 Pursuant to Transportation Code, Chapter 601, the state mandated
3 minimum insurance coverage for vehicles that are not required to
4 register under the motor carrier provisions is \$20,000 for
5 bodily injury or death to one person, \$40,000 for bodily injury
6 or death to two or more persons, and \$15,000 for property
7 damage. This minimum level of insurance is inadequate for a
8 regulated commercial activity.

9
10 A look at 16 states revealed that only Florida has lower
11 requirements than the current liability insurance limit for
12 household goods carriers weighing 26,000 pounds or less.
13 Several states have set their minimum limits by using the
14 existing federal requirements. The federal regulations found at
15 49 CFR §387.303 set the minimum vehicle liability insurance
16 amounts for motor carriers operating in interstate commerce by
17 weight of the vehicle. The federal regulations require vehicles
18 weighing under 10,000 pounds to have a minimum of \$300,000 CSL.
19 Vehicles weighing over 10,000 pounds have a minimum federal
20 limit of \$750,000 CSL. The department's adopted rule requiring
21 household goods carriers operating vehicles weighing 26,000
22 pounds or less, intrastate only, to carry a \$300,000 CSL
23 liability insurance policy complies with the state statute,
24 which mandates that the minimum liability levels not exceed the
25 federal requirements.

1
2 Large amounts of crash data are available, but the department
3 was unable to find any accident rate studies specific to
4 household goods carriers; therefore, very limited financial loss
5 information is available. National statistics between 1975-2004
6 support that vehicles weighing 26,000 pounds or less incur as
7 high an incident rate as do the larger trucks. The Insurance
8 Institute for Highway Safety shows that while the death rate for
9 occupants in passenger cars has declined 12 percent in the last
10 30 years the death rate for occupants in light trucks has
11 increased 57 percent. This indicates that light trucks are
12 involved in serious accidents that result in significant loss to
13 the injured party. The existing minimum liability insurance
14 requirements of Transportation Code, §601.072, are not
15 sufficient to cover the costs of the at-fault party involved in
16 a serious accident.

17
18 As stated, the language setting the minimum liability insurance
19 at \$300,000 was incorrectly included in the adoption filed April
20 28, 2006. This amendment adopts the same language and provides
21 the justification for how the minimum liability insurance level
22 was selected.

23
24 Amendments to §18.32(c) delete information regarding where and
25 how Type B household goods carriers must carry registration

1 certificates.

2

3 COMMENTS

4 The department received 50 comments, including comments from the
5 Southwest Movers' Association, regarding the proposed rule during
6 the comment period and three people testified during the public
7 hearing. A summary of the comments and the department's
8 responses follow.

9

10 Comment:

11 Thirty-five commenters indicated support for the elimination of
12 the Class B mover category but requested application of the
13 former Class B alternate registration and reporting requirements
14 for all small business household goods movers as required by
15 Government Code, Chapter 2006.

16

17 Response:

18 The department agrees with the elimination of the Class B mover
19 category as required by changes to Transportation Code,
20 §643.051. However, the department disagrees with application of
21 the former Class B alternate registration and reporting
22 requirements for all small business household goods movers.
23 Government Code, Chapter 2006, requires an agency to reduce the
24 adverse economic effect to small or micro-businesses only if
25 doing so is legal and feasible considering the statute under

1 which the rule is being adopted. The department does not
2 believe an alternative is feasible due to the purpose of the
3 statute under which these rules were proposed. To continue to
4 allow an alternative reporting process for household goods
5 carriers who operate vehicles under 26,000 pounds would be
6 returning to the process in place prior to the statutory change.

7

8 Comment:

9 Ten commenters stated that they support the lower liability
10 insurance limit for intrastate household goods carriers. They
11 stated that the same size vehicles are required to carry
12 \$750,000 liability insurance to meet federal requirements for
13 interstate movers.

14

15 Response:

16 The department agrees with these comments that the intrastate
17 insurance requirement established by these adopted rules is
18 lower than the federal minimum for similar size vehicles.
19 Transportation Code, §643.101(b) allows the department to set
20 the amount of liability insurance required at any amount that
21 does not exceed the federal requirement. The adopted rules meet
22 the statutory requirements.

23

24 Comment:

25 One commenter expressed that anyone in the moving industry has

1 obligations to their customers and the motoring public and that
2 those responsibilities should not be determined or limited by
3 the size of the carrier. The commenter also supported the
4 establishment of a minimum level of insurance for the industry
5 and a consistent method of reporting insurance compliance.

6

7 Response:

8 The department agrees with the establishment of a consistent
9 method of reporting insurance and registration requirements and
10 the rules as adopted achieve this. The department also agrees
11 that insurance requirements should not be determined by the size
12 of the business and believes to do so would be in conflict with
13 the purpose of the change to Transportation Code, §643.051. The
14 rule does, however, establish insurance amounts based on the
15 size of the vehicles operated.

16

17 Comment:

18 One commenter supports the proposed amendments and stated that
19 the \$300,000 minimum level of liability insurance on fleets less
20 than 26,000 pounds will be a great improvement to both moving
21 consumers as well as the general public.

22

23 Response:

24 The department agrees with the comment.

25

1 Comment:

2 One commenter stated that any implementation for requirements to
3 meet new workers' compensation insurance are not only illegal
4 but that they will most likely call for extreme manpower
5 additions, will be unenforceable on any industry-wide basis, and
6 will put undue financial burden on the independent business
7 operators of moving companies.

8

9 Response:

10 The department does not agree with this comment. Changes to the
11 workers' compensation coverage requirements are not addressed in
12 these proposed rules.

13

14 Comment:

15 One commenter stated that the insurance filing burdens on the
16 agency and the carrier are unnecessary and without statutory
17 authority.

18

19 Response:

20 The department does not agree with this comment. Transportation
21 Code, §643.103 clearly states that a motor carrier required to
22 register under Subchapter B must file evidence of insurance with
23 the department. The statute further authorizes the department
24 to set the amount of liability insurance by rule.

25

1 Comment:

2 One commenter stated that the rules should be amended to remove
3 the language added to the definition of "commercial motor
4 vehicle" in §18.2(6)(A)(vi).

5

6 Response:

7 The definition of commercial motor vehicle is used for
8 references to the term in 43 Texas Administrative Code, Chapter
9 18 only. The definition does not affect other uses of the term
10 in other rules or statutes.

11

12 Comment:

13 One commenter stated that his company and many others do not own
14 vehicles, they contract and should not be required to carry
15 insurance on non-owned vehicles.

16

17 Response:

18 The department does not agree with this comment. The statute
19 requires that any vehicle operated by a motor carrier must be
20 registered and insured.

21

22 Comment:

23 One commenter stated that the Texas Department of Transportation
24 Household Goods Carrier Advisory Committee Vehicle Liability
25 Insurance Study provided that there is no statutory authority

1 authorizing the department to require any carrier to carry or
2 file insurance. Instead Texas Civil Statutes, Article 6675c and
3 the Transportation Code specifically outline when and to what
4 extent insurance levels may be set by the department.

5

6 Response:

7 The department does not agree with this comment. Texas Civil
8 Statutes, Article 6675(c) has been repealed and codified into
9 Transportation Code, Chapter 643. House Bill 2702 amended
10 §643.051 and the former "Type B" carriers are now required to
11 register under Transportation Code, Chapter 643, Subchapter B
12 and file insurance as required by Transportation Code, Chapter
13 643, Subchapter C. Transportation Code, §643.101 instructs the
14 department to set the amount of liability insurance for motor
15 carriers required to register under Transportation Code,
16 Subchapter B.

17

18 Comment:

19 One commenter stated that the Class B mover is an effective
20 existing alternative registration and reporting process that
21 would mitigate some of the adverse economic effects of the new
22 rules when applied to small businesses as required by
23 Occupations Code, Chapter 2006.

24

25 Response:

1 The department does not agree with the comment. The "Class B"
2 motor carrier registration is no longer authorized by the
3 statute. The provisions in Transportation Code, §643.153 that
4 set out the "Class B" reporting requirements were repealed under
5 House Bill 2702 of the 79th Legislature, Regular Session, 2005.
6 All motor carriers are required to report under the same
7 statutory provisions. The department can not eliminate this
8 requirement by rule. The statute provides the department the
9 authority to set the insurance requirements by rule and that is
10 what is addressed in these adopted rules. The department
11 reviewed and considered small and micro-businesses in setting
12 the liability insurance requirement. The department is
13 mitigating the effect of the insurance requirement by proposing
14 a lower limit of \$300,000 instead of the higher federal
15 requirement of \$750,000 or the department's current requirement
16 of \$500,000 for larger vehicles.

17

18 Comment:

19 One commenter stated that there is nothing in House Bill 2702
20 that repeals Government Code, Chapter 2006 or conflicts with the
21 application for the former Class B alternative registration and
22 reporting process to small businesses.

23

24 Response:

25 The department disagrees in part with this comment. The

1 commenter is correct that House Bill 2702 did not repeal
2 Government Code, Chapter 2006. However, the bill did remove the
3 alternative registration requirements from Transportation Code,
4 §643.153. The department met all the requirements of Government
5 Code, Chapter 2006 when posting this rule for consideration.

6

7 Comment:

8 One commenter stated that the current proposed rules are
9 incorrectly published. The change in the definition of
10 commercial motor vehicle does not correctly reflect the new
11 language that has been added to the definition.

12

13 Response:

14 The department does not agree with this comment. The change to
15 the definitions of commercial motor vehicle is not a part of
16 these adopted rules. Proposed §18.2(6)(A)(vi) was published in
17 the *Texas Register* on December 2, 2005, 30 TexReg 8021. The
18 current definition was adopted by the commission on April 27,
19 2006. The language was published as adopted by the commission
20 on May 12, 2006, 31 TexReg 3908.

21

22 Comment:

23 One commenter requested that Article 6 of House Bill 2702 should
24 be referred back to the legislature for clarification rather
25 than force the agency in to potential conflicts with other Texas

1 laws, its own prior findings, and possibly assuming statutory
2 authority which does not exist.

3

4 Response:

5 The department does not agree with the comment. The department
6 does not have the authority to disregard or postpone
7 implementing changes to the statute. The department is required
8 to enforce the statute as written.

9

10 Comment:

11 One commenter requested that the department clarify and
12 substantiate the statement that there has been a 57% increase in
13 incidents of death in accidents involving pickups and light
14 trucks in Texas.

15

16 Response:

17 Manufacturers use the same chassis for SUVs and pickups causing
18 them to be rated in the same weight class. Proportionately,
19 SUVs and pickups are more likely to be involved in accidents
20 with a higher rate of death. The department stated that it was
21 unable to gather accident information specific to household
22 goods carriers and that the department provided statistics for
23 pickups and light trucks based on claims from household goods
24 carriers that they often operate those types of vehicles.

25

1 Comment:

2 One commenter stated that cost is important and that they would
3 have to significantly raise prices to cover the new insurance
4 requirements.

5
6 Response: The department agrees in part with the comment. The
7 department has clearly indicated that there will be higher costs
8 for businesses. The figures by department are estimates
9 received from insurance agents. Due to the many factors that
10 affect insurance premiums it is difficult to determine exact
11 cost. Some factors that can and may influence insurance
12 premiums are location, type of vehicle, loss history, financial
13 strength, longevity of the business, vehicle safety procedures,
14 and driver records.

15
16 Comment:

17 One commenter stated that there needs to be a separate class for
18 pickups.

19
20 Response:

21 The department does not agree with the comment. The rule that
22 is proposed is setting up a separate level of insurance for a
23 particular class of vehicles under 26,000 pounds which will
24 include pickup trucks. The proposed \$300,000 is a lower
25 alternative than the current level of \$500,000 required of

1 vehicles over 26,000 pounds.

2

3 Comment:

4 One commenter questioned the use of a second dollar policy that
5 is similar to an umbrella policy.

6

7 Response:

8 The department agrees with the comment. The adopted rules
9 require filing proof of first dollar insurance coverage.

10 However, nothing in department rules prevent a primary insurance
11 company from mitigating their exposure through other subrogation
12 agreements with insurance companies to lessen the ultimate
13 expense to the motor carrier.

14

15 Comment:

16 One commenter representing the Southwest Movers' Association
17 agrees with the department that the \$300,000 minimum insurance
18 limit is appropriate for the companies operating in smaller
19 equipment when moving household goods in Texas.

20

21 Response:

22 The department agrees with the comment.

23

24 STATUTORY AUTHORITY

25 The amendments are adopted under Transportation Code, §201.101,

1 which provides the commission with the authority to establish
2 rules for the conduct of the work of the department, and more
3 specifically, Transportation Code, §643.003, which authorizes
4 the department to adopt rules to administer Transportation Code,
5 Chapter 643 regarding motor carrier registration.

6

7 CROSS REFERENCE TO STATUTE

8 Transportation Code, Chapter 643.

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 §§5101-5127 [~~App. §§1801-1813~~]);

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;

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

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

23 (11) Conversion--A change in an entity's organization

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

4 (12) Department--Texas Department of Transportation.

5 (13) Director--The director of the Motor Carrier
6 Division, Texas Department of Transportation.

7 (14) Division--The Motor Carrier Division.

8 (15) DOI--Texas Department of Insurance.

9 (16) Estimate--An informal oral calculation of the
10 approximate price of transporting household goods.

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

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

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

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

2 or

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

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

13 (21) Household goods agent--A motor carrier who
14 transports household goods on behalf of another motor carrier.

15 (22) Household goods carrier--A motor carrier who
16 transports household goods for compensation or hire in
17 furtherance of a commercial enterprise.

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

21 (24) Inventory--A list of the items in a household goods
22 shipment and the condition of the items.

23 (25) Leasing business--A person that leases vehicles

1 requiring registration under Subchapter B of this chapter to a
2 motor carrier that must be registered.

3 (26) Manager--The manager of the department's Motor
4 Carrier Division, Motor Carrier Operations Section.

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

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

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

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

22 (31) Multiple user--An individual or business who has a
23 contract with a household goods carrier and who used the

1 carrier's services more than 50 times within the preceding 12
2 months.

3 (32) Nonconsent tow--Any tow of a motor vehicle that is
4 not a consent tow.

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

13 (34) Principal place of business--A single location that
14 serves as a motor carrier's headquarters and where it maintains
15 its operational records or can make them available.

16 (35) Public highway--Any publicly owned and maintained
17 street, road, or highway in this state.

18 (36) Reasonable dispatch--The performance of
19 transportation, other than transportation provided under
20 guaranteed service dates, during the period of time agreed on by
21 the carrier and the shipper and shown on the shipment
22 documentation. This definition does not affect the availability
23 to the carrier of the defense of force majeure.

1 (37) Registration receipt--A receipt issued to the
2 registrant by its registration state after the requirements of
3 49 CFR[7] Part 367 have been met.

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

7 (39) Replacement vehicle--A vehicle that takes the place
8 of another vehicle that has been removed from service.

9 (40) Revocation--The withdrawal of registration and
10 privileges by the department or a registration state.

11 (41) Shipper--The owner of household goods or the owner's
12 representative.

13 (42) Short-term lease--A lease of 30 days or less.

14 (43) Single state registration system--The program
15 established by 49 USC §14504.

16 (44) SOAH--The State Office of Administrative Hearings.

17 (45) State of travel--A state in which a motor carrier
18 operates motor vehicles subject to the single state registration
19 system.

20 (46) Substitute vehicle--A vehicle that is leased from a
21 leasing business and that is used as a temporary replacement for
22 a vehicle that has been taken out of service for maintenance,
23 repair, or any other reason causing the temporary unavailability

1 of the permanent vehicle.

2 (47) Suspension--Temporary removal of privileges granted
3 to a registrant by the department or a registration state.

4 (48) Towing company--A motor carrier that transports
5 vehicles using a tow truck.

6 (49) Tow--The utilization of a mechanical device used to
7 winch or otherwise move another vehicle.

8 (50) Tow truck--A motor vehicle equipped with or used in
9 combination with a mechanical device used to tow, winch, or
10 otherwise move another vehicle. The following motor vehicles
11 are not considered tow trucks:

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

14 (B) a motor vehicle towing:

15 (i) a race car;

16 (ii) a motor vehicle for exhibition; or

17 (iii) an antique motor vehicle;

18 (C) a recreational vehicle towing another vehicle;

19 (D) a motor vehicle used in combination with a tow bar,
20 tow dolly, or other mechanical device if the vehicle is not
21 operated in the furtherance of a commercial enterprise; or

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

1 [~~(51) Type B household goods carrier--A household goods~~
2 ~~carrier that does not use a motor vehicle or combination of~~
3 ~~vehicles with a gross weight, registered weight, or gross weight~~
4 ~~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
7 must 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 the motor carrier's principal business address. If the
17 mailing address is different from the principal business
18 address, the mailing address must also be disclosed.

19 (4) Legal Agent.

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

23 (B) A motor carrier domiciled outside Texas must

1 provide the name and Texas address of the legal agent for
2 service of process.

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

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

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

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

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

22 (C) is domiciled in a foreign country.

23 (7) Insurance coverage. An applicant must indicate

1 insurance coverage as required by §18.16 of this subchapter.

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

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

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

14 (B) Report of positive result. A motor carrier
15 required to register under this section shall report to the
16 Department of Public Safety, in the manner required by the
17 Department of Public Safety, a valid positive result on a
18 controlled substances test performed as part of the carrier's
19 drug testing program on an employee of the carrier who holds a
20 commercial driver's license under Transportation Code, Chapter
21 522. The term "employee" as used in this subparagraph includes
22 all employees as defined in 49 CFR §40.3 [~~Title 49, Code of~~
23 ~~Federal Regulations, Part 40.3~~].

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

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

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

- 11 (i) \$100 for annual and biennial registrations;
12 (ii) \$25 for 90 day registrations; or
13 (iii) \$5 for seven day registrations.

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

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

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

23 (C) An application must be accompanied by proof of

1 insurance or financial responsibility and insurance filing fee
2 as required by §18.16 of this subchapter.

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

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

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

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

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

23 (c) Conditional acceptance of application. The director

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

10 (d) Disposition of application.

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

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

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

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

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

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

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

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

22 (v) If an original insurance cab card is lost,
23 stolen, destroyed, or mutilated, if it becomes illegible, or if

1 it otherwise requires replacement, a new insurance cab card will
2 be issued by the department at the request of the motor carrier.

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

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

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

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

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

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

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

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

22 (2) Change of name. A motor carrier that changes its
23 name shall file a supplemental application for registration no

1 later than the effective date of the change. The motor carrier
2 shall include evidence of insurance or financial responsibility
3 in the new name and in the amounts specified by §18.16 of this
4 subchapter. A motor carrier that is a corporation must have its
5 name change approved by the Texas Secretary of State before
6 filing a supplemental application. A motor carrier incorporated
7 outside the state [~~State~~] of Texas must complete the name change
8 under the law of its state of incorporation before filing a
9 supplemental application.

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

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

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

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

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

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

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

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

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

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

1 subsection.

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

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

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

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

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

22 [~~(2) The carrier's application must be accompanied by a~~
23 ~~\$100 application fee.~~]

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

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

6 ~~[(A) is in compliance with Transportation Code, Chapter~~
7 ~~601; and]~~

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

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

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

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

21 ~~[(8) On demand by a department-certified inspector or any~~
22 ~~other authorized government personnel, the driver shall present~~
23 ~~the certificate of registration maintained in the vehicle.]~~

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

5 ~~[(10) Any erasure, alteration, or unauthorized use of a~~
6 ~~certificate of registration renders it void.]~~

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

15

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

18 (a) Expiration and renewal dates.

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

1 following chart: Figure 1: 43 TAC §18.14(a)(1)

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

2

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

5 (2) ~~[(3)]~~ 90 day certificates of registration are valid
6 for 90 calendar days from the effective date.

7 (3) ~~[(4)]~~ Seven day certificates of registration are valid
8 for seven calendar days from the effective date.

9 (b) Registration renewal.

10 (1) Approximately 60 days before the expiration of
11 registration, the department will mail or send electronically a

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

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

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

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

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

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

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

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

14
15 §18.16. Insurance Requirements.

16 (a) Automobile liability insurance requirements.

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

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

6 Minimum insurance levels are indicated in the following table.

7 Figure 1: 43 TAC §18.16(a) [~~1~~]

Type of Vehicle	Minimum Insurance Level
1. Tow trucks and household goods carriers (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. Commercial school buses, regardless of the passenger capacity as described in Transportation Code, §643.1015.	\$ 500,000
6. 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. Farm trucks (gross vehicle weight 48,000 lbs. or more).	\$ 500,000
8. Commercial motor vehicles (gross vehicle weight in excess of 26,000 lbs.), including tow trucks.	\$ 500,000
9. Commercial motor vehicles, as defined in 49	\$ 750,000

NOTE: Additions underlined
 Deletions in []
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Exhibit C

Type of Vehicle	Minimum Insurance Level
CFR §390.5, operated by a foreign motor carrier or foreign motor private carrier as defined in 49 USC §13102.	
10. 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. 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 or 2.2; or highway route controlled quantities of a Class 7 material, as defined in 49 CFR §173.403.	\$5,000,000

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

(b) Cargo insurance.

(1) Household goods carriers shall file and maintain with the department proof of financial responsibility.

(A) The minimum limits of financial responsibility for a household goods carrier for hire is \$5,000 for loss or damage

1 to a single shipper's cargo carried on any one motor vehicle.

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

10 (2) Tow truck company performing nonconsent tows. A tow
11 truck company that performs nonconsent tows shall file and
12 maintain with the department proof of financial responsibility
13 for on-hook cargo. The minimum level of financial
14 responsibility for each registered vehicle performing nonconsent
15 tows will be in the amount of at least \$50,000.

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

17 (1) A motor carrier that is required to register under
18 this subchapter and whose primary business is transportation for
19 compensation or hire between two or more incorporated cities,
20 towns, or villages shall provide workers' compensation for all
21 its employees or accidental insurance coverage in the amounts
22 prescribed in paragraph (2) of this subsection.

23 (2) Accidental insurance coverage required by paragraph

1 (1) of this subsection shall be at least in the following
2 amounts:

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

5 (B) \$100,000 for accidental death and dismemberment,
6 including 70% of employee's pre-injury income for not less than
7 104 weeks when compensating for loss of income; and

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

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

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

21 (2) Adopted final orders. The department adopts all
22 final orders of the Railroad Commission of Texas to the extent
23 that they concern self-insurance and were in effect on August

1 31, 1995. Those final orders are continued in effect until
2 changed by order of the department.

3 (3) Applicant guidelines. In addition to filing an
4 application as prescribed by the department, an applicant for
5 self-insured status must submit materials that will allow the
6 department to determine the following information.

7 (A) Applicant's net worth. An applicant's net worth
8 must be adequate in relation to the size of its operations and
9 the extent of its request for self-insurance authority. The
10 applicant must demonstrate that it can and will maintain an
11 adequate net worth.

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

- 19 (i) reserves;
20 (ii) sinking funds;
21 (iii) third-party financial guarantees;
22 (iv) parent company or affiliate sureties;
23 (v) excess insurance coverage; and

1 (vi) other appropriate aspects of the applicant's
2 program.

3 (C) Safety program. An applicant must submit evidence
4 of substantial compliance with the Federal Motor Carrier Safety
5 Regulations as adopted by the Texas Department of Public Safety
6 and with Transportation Code, Chapter 644.

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

11 (5) Periodic reports. An applicant shall file annual
12 statements, semi-annual and quarterly reports, and any other
13 reports required by the department reflecting the applicant's
14 financial condition and the status of its self-insurance program
15 while the motor carrier is self-insured.

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

19 (7) Revocation of self-insured status. On receiving
20 evidence that a self-insured motor carrier's financial condition
21 has changed, that its safety program or record is inadequate, or
22 that it is otherwise not in compliance with this subchapter, the
23 department may at any time require the self-insured to provide

1 additional information. On 10 days notice from the department,
2 the self-insured shall appear and demonstrate that it continues
3 to have adequate financial resources to pay all claims involving
4 motor vehicles for bodily injury and property damage liability.
5 The self-insured shall also demonstrate that it remains in
6 compliance with the requirements of this section and of any
7 active self-insurance orders issued or adopted by the
8 department. If an applicant fails to comply with this
9 paragraph, its self-insured status may be revoked.

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

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

15 (1) Forms.

16 (A) A motor carrier [~~other than a Type B household~~
17 ~~goods carrier,~~] shall file and maintain proof of automobile
18 liability insurance for all vehicles required to be registered
19 under this subchapter at all times. This proof shall be filed
20 on a form acceptable to the director.

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

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

5 (2) Filing proof of insurance and financial
6 responsibility. A motor carrier's insurance or surety company,
7 bank, or other financial institution shall file and maintain
8 proof of insurance or financial responsibility on a form
9 acceptable to the director:

10 (A) at the time of the original application for motor
11 carrier certificate of registration;

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

14 (C) when the motor carrier changes insurers;

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

17 (E) when the motor carrier changes its name under
18 §18.13(f)(2) of this subchapter;

19 (F) when the motor carrier, under subsection (a) of
20 this section, changes the classification of the cargo being
21 transported; and

22 (G) when replacing another active insurance filing.

23 (3) Filing fee. Each certificate of insurance or proof

1 of financial responsibility filed with the department for the
2 coverage required under this section shall be accompanied by a
3 nonrefundable filing fee of \$100. This fee applies both when
4 the carrier submits an original application and when the carrier
5 submits a supplemental application when retaining a revoked
6 certificate of registration number.

7 (4) Acceptable filings. The department will not accept
8 an insurance policy or certificate of insurance unless it is
9 issued by an insurance company licensed and authorized to do
10 business in the state [State] of Texas. It must be in a form
11 prescribed or approved by the DOI and signed or countersigned by
12 an authorized agent of the insurance company. The department
13 will accept a certificate of insurance issued by a surplus lines
14 insurer that meets the requirements of Insurance Code, §981.101
15 [~~Article 1.14-2~~], and rules adopted by the DOI under that
16 chapter [~~article~~].

17 (f) Cancellation of insurance coverage. Except when
18 replaced by another acceptable form of insurance coverage or
19 proof of financial responsibility approved by the department, no
20 insurance coverage shall be canceled or withdrawn until 30 days
21 after notice has been given to the department by the insurance
22 company in a form approved by the department. Nonetheless,
23 proof of insurance coverage for a seven day or 90 day

1 certificate of registration may be canceled by the insurance
2 company without 30 days notice if the certificate of
3 registration is expired, suspended, or revoked, and the
4 insurance company provides a cancellation date on the proof of
5 insurance coverage. The department will revoke a certificate of
6 registration under §18.72 of this chapter for failure to
7 maintain proof of current insurance.

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

11 (1) the new insurance filing is received by the
12 department; and

13 (2) a cancellation notice has not been received for
14 previous insurance filings.

15 (h) Insolvency of insurance carrier. If the insurer of a
16 motor carrier becomes insolvent or becomes involved in a
17 receivership or other insolvency proceeding, the motor carrier
18 must file an affidavit with the department. The affidavit must
19 be executed by an owner, partner, or officer of the motor
20 carrier and show that:

21 (1) no accidents have occurred and no claims have arisen
22 during the insolvency of the insurance carrier; or

23 (2) all claims have been satisfied.

1 (i) Notifications. The department shall notify the Texas
2 Department of Public Safety and other law enforcement agencies
3 of each motor carrier whose certificate of registration has been
4 revoked for failing to maintain liability insurance coverage.

1 SUBCHAPTER C. RECORDS AND INSPECTIONS

2 §18.32. Motor Carrier Records.

3 (a) General records to be maintained. Every motor carrier
4 shall prepare and maintain at its principal place of business in
5 Texas:

6 (1) operational logs, insurance certificates, and
7 documents to verify the carrier's operations;

8 (2) complete and accurate records of services performed;

9 (3) all certificate of title documents, weight tickets,
10 permits for oversize or overweight vehicles and loads, dispatch
11 records, tow tickets, or any other document that would verify
12 the operations of the vehicle to determine the actual weight,
13 insurance coverage, size, and/or capacity of the vehicle;

14 (4) documents supporting fee payments and the original
15 registration receipts issued by the department for an interstate
16 carrier registered under §18.17 of this chapter (relating to
17 Single State Registration System), for a period of at least
18 three years; and

19 (5) the original certificate of registration and
20 registration listing, if applicable.

21 (b) Additional records for household goods carriers. In
22 order to verify compliance with Subchapters B and E of this
23 chapter, every household goods carrier shall retain complete and

1 accurate records maintained in accordance with reasonable
2 accounting procedures of all services performed in intrastate
3 commerce. Household goods carriers shall retain all of the
4 following information and documents:

5 (1) moving services contracts, such as, bills of lading
6 or receipts;

7 (2) proposals for moving services;

8 (3) inventories, if applicable;

9 (4) freight bills;

10 (5) time cards, trip sheets, or driver's logs;

11 (6) claim records;

12 (7) ledgers and journals;

13 (8) canceled checks;

14 (9) bank statements and deposit slips;

15 (10) invoices, vouchers or statements supporting

16 disbursements; and

17 (11) dispatch records.

18 (c) Proof of motor carrier registration.

19 (1) Except as provided in paragraph [~~paragraphs (1) and~~]

20 (2) of this subsection, every motor carrier shall maintain a

21 copy of its current registration listing in the cab of each

22 registered vehicle at all times. A motor carrier shall make

23 available to a certified inspector or any law enforcement

1 officer a copy of the current registration listing upon request.

2 ~~[(1) A Type B household goods carrier shall maintain a~~
3 ~~copy of its certificate of registration in either the cab of~~
4 ~~each power unit or each trailer operated on its behalf at all~~
5 ~~times. A Type B household goods carrier shall make available~~
6 ~~and accessible to a certified inspector or any law enforcement~~
7 ~~officer a copy of the current certificate of registration.]~~

8 (2) A registered motor carrier is not required to carry
9 proof of registration in a vehicle leased from a leasing
10 business that is registered under §18.19 of this chapter
11 (relating to Short-term Lease and Substitute Vehicles), when
12 leased as a temporary replacement due to maintenance, repair, or
13 other unavailability of the originally leased vehicle. A copy
14 of the lease agreement, or the lease for the originally leased
15 vehicle, in the case of a substitute vehicle, must be carried in
16 the cab of the vehicle.

17 (d) Location of files. Except as provided in paragraphs
18 (1) and (2) of this subsection, every motor carrier shall
19 maintain at a principal office in Texas all records and
20 information required by the department.

21 (1) Texas firms. If a motor carrier wishes to maintain
22 records at a location other than its principal office in Texas,
23 the motor carrier shall make a written request to the manager.

1 A motor carrier may not begin maintaining records at an
2 alternate location until the request is approved by the manager.

3 (2) Out-of-state firms. A motor carrier whose principal
4 business address is located outside the state of Texas shall
5 maintain records required under this section at its principal
6 office in Texas. Alternatively, a motor carrier may maintain
7 such records at an out-of-state facility if the carrier
8 reimburses the department for necessary travel expenses and per
9 diem for any inspections or investigations conducted in
10 accordance with §18.31 of this subchapter.

11 (3) A motor carrier that performs nonconsent tows shall
12 maintain a current towing fee schedule, as prescribed in
13 Subchapter H of this chapter (relating to Nonconsent Towing Fees
14 Schedule), at all vehicle storage facilities where vehicles are
15 delivered.

16 (e) Preservation and destruction of records. All books and
17 records generated by a motor carrier, except driver's time cards
18 and logs, must be maintained for not less than two years at the
19 motor carrier's principal business address. A motor carrier
20 must maintain driver's time cards and logs for not less than six
21 months at the carrier's principal business address.