

MINUTES
PUBLIC SAFETY COMMISSION
April 23, 2020
AUSTIN, TX

On March 16, 2020, Governor Greg Abbott suspended certain requirements of the Open Meetings Act to advance the public health goal of limiting face-to-face meetings during the public health disaster caused by the Coronavirus. Members of the commission participated in the meeting remotely and were not together at the same physical location. The public accessed the meeting through a link provided at the department's internet website.

The Public Safety Commission meeting was held by telephonic-audio conference on April 23, 2020. Attending the meeting were Chairman Steven Mach, Commissioners Nelda Blair, Steve Stodghill and Dale Wainwright. DPS staff members and guests were also present through the telephonic-audio conference.

CALL TO ORDER (0:00:00)

The meeting was called to order by Chairman Mach at 1:03 p.m. Proper notice had been posted.

INVOCATION (0:01:39)

Invocation was given by Chaplain Ferman Carpenter.

APPROVAL OF MINUTES (0:03:40)

A motion was made by Commissioner Wainwright, seconded by Commissioner Blair, approving the minutes for the discharge hearing held on February 12, 2020, and the Public Safety Commission meeting held February 13, 2020. A rollcall vote was conducted and the motion passed unanimously.

PUBLIC COMMENT (0:04:25)

Jenna Kahalnik – requested consideration to allow people with good records, who are required to renew their driver license at a Driver License office, be allowed to renew online during pandemic.

Response issued by Deputy Director Williams:

-DPS is currently working on a Reopening Plan which will consist of an Appointments

Solution that will be implemented when the Driver License offices reopen.

- The appointment solution will allow applicants to schedule appointments up to six months in advance and applicants will only need to arrive 30 minutes prior to be scheduled.

DIRECTORS REPORT (0:13:22)

Director McCraw provided a COVID-19 Update:

- Commercial Driver License (CDL) testing is being maintained throughout the state (over 800 CDL skills tests passed; 2,700 modified CDL's issued; and 113,000 Driver License renewals conducted online)
- 3/26/20 - Governor's Executive Order initiated a screening program for air travel from certain designated locations around the country; verifying 14-day quarantine on those traveling to Texas, which is being continued to date (12,749 flights and 5,629 passengers screened)
- 3/30/20 - Governor Abbott executed roadside screenings for those traveling from Louisiana to Texas (260,000 vehicles have been screened at these checkpoints)
- Lab Services, Criminal Justice Systems, Troopers, Special Agents and Texas Rangers continue to operate efficiently
- 5 Commissioned personnel have tested positive for COVID and 26 are under quarantine
- 11 Non-Commissioned personnel have tested positive for COVID and 116 are under quarantine (mostly Driver License personnel)

Deputy Director Martin provided a recruit school update:

- Screening process is setup with no issues or illnesses to date
- Recruits are instructed to limit association with others during the weekend
- Upon their return on Sunday, recruits are screened in the parking lot before they exit their vehicles
- Screening also occurs several times a day at the academy with limited staff access
- Instructors utilize video conferencing for their classes

(0:19:18) Chairman Mach acknowledged the following on the telephonic-audio conference:

Susan Nelson – Representative Vikki Goodwin's office
Suzanne Mackowiak and Aaron Moncibaiz – Lieutenant Governor's Office
Shauna Miller and Katy Fallon-Brown – Legislative Budget Board
Caitriana Corkill – Senator Charles Perry's office
Stacey Chamberlain – Senator Kelly Hancock's office

NEW BUSINESS

A. Report, discussion, and possible action on the Agency Strategic Plan (0:19:45)

Director McCraw presented the following proposed structure of budgetary goals to be recommended to the Legislative Budget Board as part of the Agency Strategic Plan:
-87th Legislature requested structure:

- Goal A: Protect Texas
 - LN: Protect Texas from Public Safety Threats
 - Objective A.1: Provide Intelligence
 - Strategy A.1.1: Intelligence
 - LN: Provide Integrated Statewide Public Safety Intelligence Network
 - Strategy A.1.2: Interoperability and Communications
 - LN: Improve Statewide Interoperability and Public Safety Communications
 - Objective A.2: Secure Texas from Transnational Crime
 - Strategy A.2.1: Drug and Human Smuggling and Trafficking
 - LN: Deter, Detect, and Interdict Drug and Human Smuggling and Trafficking
 - Strategy A.2.2: Crime in High Threat Areas
 - LN: Deter and Interdict Transnational Related Crimes in High Threat Areas
 - Strategy A.2.3: Extraordinary Operations
 - LN: Conduct Extraordinary Border Security Operations
 - Objective A.3: Conduct Investigations
 - Strategy A.3.1: Criminal Investigations
 - LN: Reduce Threats of Organized Crime, Terrorism & Mass Casualty Attacks
 - Strategy A.3.2: Texas Rangers
 - LN: Provide Statewide Major Crime, Tactical & Public Corruption Expertise
 - Objective A.4: Provide Public Safety
 - Strategy A.4.1: Texas Highway Patrol
 - LN: Deter, Detect, and Interdict Public Safety Threats on Roadways
 - Strategy A.4.2: Aircraft Operations
 - LN: Provide Statewide Air Patrol, Crime Surveillance, and Rescue
 - Strategy A.4.3: Security Programs
 - LN: Provide Security for the Capitol Complex and State Officials
 - Strategy A.4.4: Statewide Emergency Response
 - LN: Provide Statewide Emergency Response and Rescue
- Goal B: Regulatory and Law Enforcement Services
 - LN: Provide Regulatory and Law Enforcement Services to all Customers
 - Objective B.1: Provide Law Enforcement Services
 - Strategy B.1.1: Crime Laboratory Services
 - LN: Provide Forensic Science Services to Law Enforcement
 - Strategy B.1.2: Crime Records Service
 - LN: Provide Records to Law Enforcement and Criminal Justice
 - Strategy B.1.3: Victim and Employee Services

- LN: Provide Support, Education, Referral, and Grief Counseling Services
 - Objective B.2 Provide Regulatory Services
 - Strategy B.2.1: Regulatory Issuance, Modernization, and Compliance
 - LN: Administer Programs, Issue Licenses, and Enforce Compliance
- Goal C: Driver License Services
 - LN: Enhance Public Safety through the Licensing of Texas Drivers
 - Objective C.1: Administer the Driver License Program
 - Strategy C.1: Driver License Services
 - LN: Issue Driver Licenses and Enforce Compliance on Roadways
- Goal D. Agency Services and Support
 - LN: Provide Agency Administrative Services and Support
 - Objective D.1 Provide Agency Administrative Services and Support
 - Strategy D.1.1: Headquarters Administration
 - LN: Support Senior Leadership and Oversight of Operations
 - Strategy D.1.2: Information Technology
 - LN: Increase Availability of Information Technology Resources
 - Strategy D.1.3: Financial Management
 - LN: Manage Agency Finances
 - Strategy D.1.4: Training Academy and Development
 - LN: Provide Education and Training
 - Strategy D.1.5: Facilities Management
 - LN: Provide Optimal Facilities Management
 - Strategy D.1.6: Office of the Inspector General
 - LN: Office of the Inspector General

While crime is down during COVID-19; there has been an increase in violent crime in our larger cities (Dallas, Fort Worth, San Antonio and Houston). Deputy Director Williams reported in Dallas multiple encounters were with the same suspects. Of the 1,156 people arrested during the twelve week operation over 500 were felony offenses. Over 300 of those felony offense suspects were released on less than a \$500 bond.

A motion was made by Commissioner Stodghill, seconded by Commissioner Blair, adopting and approving the recommendations to the Legislative Budget Board for changes to the departments Strategic Plan as set forth. A rollcall vote was conducted and the motion passed unanimously.

B. Review and Possible Approval of Expenditure Plan for Seized Funds (0:51:02)

Director McCraw and Chief Whittenton sought permission to use seized funds to purchase a 13 year-old Beechcraft from the University of Texas for \$2.5M. If purchased, this aircraft would replace a 35-year old Commander and the department could expect to get \$750,000 in parts sales which would be returned to seized funds.

A motion was made by Commissioner Stodghill, seconded by Commissioner Blair, authorizing use of seized funds to purchase aircraft from the University of Texas for \$2.5M. A rollcall vote was conducted and the motion passed unanimously.

C. Final Determination in Contested Cases – consideration and possible action on Proposal for Decision: (1:00:22)

1. SOAH Docket No. 405-20-1115.MVI – Hector Espinoza

A motion was made by Commissioner Wainwright, seconded by Commissioner Blair, to adopt the Proposal for Decision issued in SOAH Docket No. 405-20-1115.MVI – Hector Espinoza. A rollcall vote was conducted and the motion passed unanimously.

D. Intelligence Threat Briefing (Clearance Required – Executive Session Expected)

ONGOING BUSINESS

A. Report, discussion, and possible adoption of the following previously published rules:

1. Amendments to 37 TAC Section 10.4 and new Section 10.5 and Section 10.6, concerning General Provisions (1:02:45)

No comments.

2. Amendments to 37 TAC Sections 10.11, 10.13, 10.14, and new Section 10.17, concerning Vendor Authorization

No comments.

3. Amendments to 37 TAC Section 10.32, concerning Denial of Request for Approval; Revocation of Device Approval

No comments.

4. Amendments to 37 TAC Sections 23.1, 23.3, 23.5, and 23.6, concerning Vehicle Inspection and Vehicle Inspector Certification

No comments.

5. Amendments to 37 TAC Sections 23.12 – 23.14, concerning General Vehicle Inspection Station Requirements

Comments received and incorporated.

6. Amendments to 37 TAC Section 23.51 and Section 23.55, concerning Vehicle Emissions Inspection and Maintenance Program

No comments.

7. Repeal of 37 TAC Section 23.56, concerning Waiver for Low Volume Emission Inspection Stations

No comments.

8. Amendments to 37 TAC Section 23.62 and Section 23.63, concerning Violations and Administrative Penalties

No comments.

9. Amendments to 37 TAC 36.1, concerning Definitions

No comments.

10. Amendments to 37 TAC Section 36.11, concerning Application for Certificate of Registration

No comments.

11. Amendments to 37 TAC Section 36.34 and Section 36.36, concerning Practice by Certificate Holders and Reporting Requirements

No comments.

12. Amendments to 37 TAC Sections 36.51, 36.53, 36.55, and 36.56, and new Section 36.57, concerning Disciplinary and Administrative Procedures

No comments.

13. Repeal of 37 TAC Sections 36.57 – 36.59, concerning Disciplinary and Administrative Procedures

No comments.

A motion was made by Commissioner Wainwright, seconded by Commissioner Blair, adopting Ongoing Business, Items A1 – A13. A rollcall vote was conducted and the motion passed unanimously.

B. Report, discussion, update and possible action regarding Driver License Action Plan (1:08:49)

Update provided by Chief Sheri Gipson:

- April update, 230 vacancies remain
- COVID-19 has halted the interviewing process and are currently working with DPS Risk Management group to resume
- New appointment solution is on track for completion May 15, 2020
- Angleton DL office is scheduled to open December 2020; Denton DL office encountered zoning issues delaying opening to April or May 2021
- REAL ID has been extended to October 2021 (89% compliance)
- 32 CDL offices are conducting CDL testing (2 offices are currently closed)
- Working on Reopen Plan which will include appointment solution

C. Report, discussion, and update regarding Mass Casualty Attacks including progress on Executive Order GA-07 issued September 5, 2019 (1:13:55)

Brief update provided by Director McCraw:

- No new information to report. All is complete with the exception of being able to work with TEA on direct reporting. Everything should be in place when school returns next year.

D. Report, discussion, and possible action regarding the modification of the DPS organizational structure and the appointment, promotion, ratification, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of the Department or Commission management team (1:15:29)

Director McCraw sought advice and consent for the following promotions:

-Promote Major Justin Chrane (THP HQ) to Assistant Chief of Administration, Texas Highway Patrol Division, Austin.

A motion was made by Commissioner Blair, seconded by Commissioner Wainwright approving Justin Chrane as Assistant Chief of Administration, Texas Highway Patrol Division, Austin. A rollcall vote was conducted and the motion passed unanimously.

-Promote Major William Urbanczyk (Central Texas Region) to Assistant Chief of Operations, Texas Highway Patrol Division, Austin.

A motion was made by Commissioner Stodghill, seconded by Commissioner Wainwright approving William Urbanczyk as Assistant Chief of Operations, Texas Highway Patrol Division, Austin. A rollcall vote was conducted and the motion passed unanimously.

-Organizational name change for Education, Training and Research (ETR) to Training Operations Division (TOD).

A motion was made by Commissioner Blair, seconded by Commissioner Wainwright approving the organizational name change to Training Operations Division. A rollcall vote was conducted and the motion passed unanimously.

-Introduction of Ericka Miller as the new Press Secretary.

E. Report, discussion, and possible action regarding ongoing criminal investigations pursuant to Government Code § 411.0041 (Executive Session)

To be discussed during Executive Session.

REPORTS (1:23:21)

None.

CONSENT ITEMS (1:24:16)

A. Advice and consent regarding director's determination that certain probationary employees were found unsuitable for work during February and March 2020

B. Discussion and possible action on appointments of Special Rangers and Special Texas Rangers pursuant to Government Code Chapter 411, Secs. 411.023 & 411.024: Special Rangers: Larry C. Bigham, Joe S. Byrd, Gregg A. Castillo, Bruce G. Eden, James R.

Faulkner, Jr., Marvin G. Jenkins, Ronald C. Joy, Jr., and Billy M. Ladd; Special Texas Rangers: Robert L. Garcia, and Jesus J. Valdez

C. Donations:

1. Texas Rangers "Company F" – use of Beaver Creek Ranch for law enforcement training purposes

2. Texas Highway Patrol – donation of PrePass services for Electronic Clearance System for commercial motor vehicles

3. Education, Training & Research – donation of two ambulances and one response support vehicle for the Tactical Training Center

4. Law Enforcement Support – donation of process improvement training for DPS Crime Lab Toxicology sections

5. Additional donation items, as needed

A motion was made by Commissioner Blair, seconded by Commissioner Stodghill, approving Consent Items, Items A – C5. A rollcall vote was conducted and the motion passed unanimously.

ITEMS FOR FUTURE AGENDA (1:25:57)

None at this time.

DATE FOR FUTURE MEETING (1:26:05)

Any discharge hearings will be scheduled on June 10, 2020, and the regular Public Safety Commission meeting is scheduled for June 11, 2020.

ADJOURN INTO EXECUTIVE SESSION

The Commission adjourned into Executive Session to discuss security issues, to consult with legal counsel regarding pending or contemplated litigation or settlement offers or to receive legal advice on items posted on this agenda; deliberation regarding real estate matters; consideration of any other items authorized by law, including personnel matters, the Director's action of discharging employees as identified in this agenda; ongoing criminal investigations. Executive Session began at 2:31 p.m.

(1:26:50) The Public Safety Commission reconvened in open session at 2:56 p.m. Commissioners present were Chairman Steven Mach, Commissioners Nelda Blair, Steve Stodghill and Dale Wainwright.

ADJOURN

A motion was made by Commissioner Wainwright, seconded by Commissioner Blair, to adjourn the meeting. A rollcall vote was conducted and the motion passed unanimously.

The meeting was adjourned at 2:58 p.m.

Read and approved this 11th day of June, 2020.

Steven P. Mack
Chairman

DOCKET NO. 405-20-1115.MVI

TEXAS DEPARTMENT OF PUBLIC SAFETY – PUBLIC SAFETY COMMISSION	§	BEFORE THE
	§	
VS.	§	STATE OF TEXAS
	§	
HECTOR ESPINOZA, RESPONDENT	§	PUBLIC SAFETY COMMISSION

FINAL ORDER

On April 17, 2020, the Public Safety Commission held a public meeting and considered the Proposal for Decision issued in the above referenced case by the Administrative Law Judge (ALJ) of the State Office of Administrative Hearings. For purposes of this Order, the Commission adopts the findings of fact and conclusions of law reflected in the Proposal for Decision.

The Commission, after review and due consideration of the Proposal for Decision, accepts the recommendation of the ALJ that Hector Espinoza’s vehicle inspector certification should be suspended for twelve months.

IT IS THEREFORE ORDERED that the certification as a vehicle inspector for HECTOR ESPINOZA is hereby SUSPENDED for twelve months.

SIGNED this 23rd day of April, 2020.

Steven P. Mach
Steven P. Mach, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On April 17, 2020, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Ignition Interlock Device
Title 37 T.A.C. Part I, Chapter 10
Subchapter A
Sections 10.4 – 10.6

The Texas Department of Public Safety (the department) adopts amendments to §10.4 and new §10.5 and §10.6, concerning General Provisions. These rules are adopted without changes to the proposed text as published in the February 28, 2020 issue of the *Texas Register* (45 TexReg 1360) and will not be republished.

These rule changes implement Senate Bill 616, 86th Legislative Session. This bill authorizes the department to obtain fingerprints and to access and use criminal history record information that relates to those who hold or apply for authorization to act as vendors of ignition interlock devices. This authority requires the adoption of rules relating to disqualifying criminal offenses and the procedures for appeal of licensing actions based on criminal history determinations. Senate Bill 616 also requires adoption of procedures for the informal resolution of complaints against ignition interlock vendors.


No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §521.2476 which authorizes the department to adopt rules to administer the program; and Texas Government Code, Chapter 411, Subchapter Q and Subchapter R, which authorize the Public Safety Commission to adopt rules governing various regulatory programs, including the Ignition Interlock Device program.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, §2001.033.



Steven P. Mach, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On April 17, 2020, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Ignition Interlock Device
Title 37 T.A.C. Part I, Chapter 10
Subchapter B
Sections 10.11, 10.13, 10.14, and 10.17

The Texas Department of Public Safety (the department) adopts amendments to §10.11, §10.13, and §10.14 and new §10.17, concerning Vendor Authorization. These rules are adopted without changes to the proposed text as published in the February 28, 2020 issue of the *Texas Register* (45 TexReg 1361) and will not be republished.

These rule changes and new rule implement Senate Bill 616, 86th Legislative Session. This bill authorizes the department to obtain fingerprints and to access and use criminal history record information that relates to those who hold or apply for authorization to act as vendors of ignition interlock devices. This authority requires the adoption of rules relating to disqualifying criminal offenses and the procedures for appeal of licensing actions based on criminal history determinations. Senate Bill 616 also requires adoption of procedures for the informal resolution of complaints against ignition interlock vendors. Senate Bill 616 requires changes to the date of expiration, the adoption of procedures for the informal resolution of complaints against device vendors, and the development of a penalty schedule for violations of a law or rule relating to the vendor authorization.


No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §521.2476 which authorizes the department to adopt rules to administer the program; and Texas Government Code, Chapter 411, Subchapter Q and Subchapter R, which authorize the Public Safety Commission to adopt rules governing various regulatory programs, including the Ignition Interlock Device program.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, §2001.033.



Steven P. Mach, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On April 17, 2020, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Ignition Interlock Device
Title 37 T.A.C. Part I, Chapter 10
Subchapter D
Section 10.32

The Texas Department of Public Safety (the department) adopts amendments to §10.32, concerning Denial of Request for Approval; Revocation of Device Approval. This rule is adopted without changes to the proposed text as published in the February 28, 2020 issue of the *Texas Register* (45 TexReg 1363) and will not be republished.

This rule change is a non-substantive change to the title of a cross-referenced rule. The latter rule's title is being changed as part of the department's implementation of Senate Bill 616, 86th Legislative Session.

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §521.2476 which authorizes the department to adopt rules to administer the program; and Texas Government Code, Chapter 411, Subchapter Q and Subchapter R, which authorize the Public Safety Commission to adopt rules governing various regulatory programs, including the Ignition Interlock Device program.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, §2001.033.



Steven P. Mach, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On April 17, 2020, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Vehicle Inspection
Title 37 T.A.C. Part I, Chapter 23
Subchapter A
Sections 23.1, 23.3, 23.5, and 23.6

The Texas Department of Public Safety (the department) adopts amendments to §§23.1, 23.3, 23.5, and 23.6, concerning Vehicle Inspection Station and Vehicle Inspector Certification. These rules are adopted without changes to the proposed text as published in the February 28, 2020 issue of the *Texas Register* (45 TexReg 1364) and will not be republished.

These rule changes are in part necessary to implement Senate Bill 616, 86th Legislative Session, which amends Texas Transportation Code, Chapter 548. The adopted amendments in §23.5, concerning Vehicle Inspection Station and Vehicle Inspector Disqualifying Criminal Offenses, implement House Bill 1342, 86th Legislative Session, which amended Occupations Code, §§53.021, 53.022, and 53.023. The adopted amendments in §23.6, concerning Training, clarify the department's authority to provide online training for vehicle inspectors.

No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §548.002, which authorizes the Department of Public Safety to adopt rules to enforce Chapter 548; Texas Transportation Code, §548.410, which authorizes the Department of Public Safety to adopt rules establishing the expiration dates of inspector and station certificates; and Texas Transportation Code, §548.506 and §548.507, which authorizes the Public Safety Commission to adopt rules establishing fees for certification as a vehicle inspector, and as an inspection station, respectively.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, §2001.033.



Steven P. Mach, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On April 17, 2020, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Vehicle Inspection
Title 37 T.A.C. Part I, Chapter 23
Subchapter B
Sections 23.12 – 23.14

The Texas Department of Public Safety (the department) adopts amendments to §§23.12 - 23.14, concerning General Vehicle Inspection Station Requirements. These rules are adopted with changes to the proposed text as published in the February 28, 2020 issue of the *Texas Register* (45 TexReg 1368) and will be republished.

The adopted amendment to §23.12, concerning Standards of Conduct, implements Senate Bill 711, 86th Legislative Session, which authorizes the Department of Public Safety to include vehicle safety recall information on the Vehicle Inspection Report. The rule requires the vehicle inspector to advise the vehicle owner or operator of the recall. The adopted amendment to §23.13, concerning Equipment Requirements for All Classes of Vehicle Inspection Stations, removes an unnecessary equipment requirement, and the adopted amendment to §23.14, concerning Vehicle Inspection Station Signage, clarifies that the requirement to post the station's hours of operation refers only to the hours vehicle inspections are offered.

The department accepted comments on the proposed amendments through March 30, 2020. Written comments relating to §23.12 were submitted by Laird Doran, on behalf of Gulf States Toyota, Inc.; Lori McMahon, on behalf of Toyota Motor North America; Karen Phillips, on behalf of Texas Automobile Dealers Association; Phil Elam, on behalf of Texas Recreational Vehicle Association; Scott Morrison, on behalf of National Autotech Inc.; Mark Bochnowski, on behalf of Lube 'n Go; Brandi Bird, on behalf of Texas State Inspection Association; Raul Leal, on behalf of Radiadores; Brian Newton, on behalf of Take 5 Oil Change, and State Senator Juan Hinojosa.

The substantive comments received and the department's responses are summarized below. Additional concerns were raised during the Vehicle Inspection Advisory Committee meeting on March 25, 2020, resulting in clarifying changes to the proposal. No comments were received on §23.13 or §23.14.

COMMENT:

Ms. Phillips, Ms. Bird, Mr. Bochnowski, Mr. Morrison, Mr. Newton, and Sen. Hinojosa raised the concern that the recall information may be complicated and that an inspector may not have the knowledge or expertise to review the details with a vehicle owner or operator. Mr. Elam raised a similar concern specifically relating to the inspection of recreational vehicles, indicating that few inspectors would be qualified to review with the vehicle owner or operator the details regarding recalls due to the complexity of the components used in the manufacturing of recreational vehicles. Mr. Leal is understood to have similar concerns, as his proposed language removes the relevant language.

RESPONSE:

The department agrees with these comments and is removing the requirement to review the details of the recall information with the vehicle owner or operator.

COMMENT:

Ms. Bird, Mr. Bochnowski, Mr. Morrison, and Mr. Newton raised the concern that the proposed language appears to require the inspector determine whether the recall related repairs have been completed. Mr. Leal is understood to have similar concerns, based on his proposed alternative language.

RESPONSE:

The department agrees with this comment, and is removing the language referring to repairs.

COMMENT:

Mr. Doran, Ms. McMahon, Ms. Philips, and Sen. Hinojosa raised the concern that the inspector may never have direct contact with the vehicle owner or operator, or that such contact may not be practical under certain circumstances.

RESPONSE:

The department agrees with this comment and is modifying the proposal to authorize the vehicle inspection station owner to delegate the responsibility to another employee. Under the amended proposal, the station owner will be responsible for ensuring compliance with the rule. In addition, the proposal is amended to apply only “where reasonably practical.”

COMMENT:

Ms. Bird, Mr. Bochnowski, Mr. Leal, Mr. Morrison, and Mr. Newton asked that the proposal include a signature line on the vehicle inspection report for the customer to acknowledge the inspector’s compliance with the requirements of the proposal. Ms. Bird and Mr. Newton also ask that the customer be required to sign this acknowledgment.

RESPONSE:

This content of the vehicle inspection report is outside the scope of the proposed rule amendment. No changes were made to the proposal based on these comments.

COMMENT:

Mr. Doran, Ms. Bird, Mr. Bochnowski, Mr. Morrison, Mr. Leal, and Mr. Newton requested the addition of language to clarify that the rule is not effective until the necessary software changes have been made to add the recall information to the vehicle inspection report.

RESPONSE:

The department agrees with this comment, and is modifying the proposal to state “If the vehicle inspection reports shows the vehicle being inspected to be subject to a safety recall...” to indicate that the rule would not be effective until the recall information was added to the vehicle inspection report.

COMMENT:

Mr. Elam suggested in lieu of the proposed rule the department provide written notice of the existence of a recall, and he provided proposed language for such notice. Mr. Doran and Ms. Phillips also provided proposed language to be included in the vehicle inspection report.

RESPONSE:


This content of the vehicle inspection report is outside the scope of the proposed rule amendment. No changes were made to the proposal based on this comment.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Transportation Code, §548.002, which authorizes the Department of Public Safety to adopt rules to enforce Chapter 548.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, §2001.033.



Steven P. Mach, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On April 17, 2020, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Vehicle Inspection
Title 37 T.A.C. Part I, Chapter 23
Subchapter E
Section 23.51 and Section 23.55

The Texas Department of Public Safety (the department) adopts amendments to §23.51 and §23.55, concerning Vehicle Emissions Inspection and Maintenance Program. These rules are adopted without changes to the proposed text as published in the February 28, 2020 issue of the *Texas Register* (45 TexReg 1369) and will not be republished.

These rule amendments address changes to the vehicle emission test requirements that became effective January 1, 2020.

The adopted amendments remove references to vehicle emissions tailpipe tests, i.e., the Acceleration Simulation Mode (ASM) and Two-Speed Idle (TSI) tests, and the related equipment requirements. These tests, and the equipment necessary to conduct them, are no longer necessary as of January 1, 2020. On that date the vehicles for which these tests were necessary became exempt from the state's emission inspection requirements.

On January 1, 2020, model year 1995 vehicles became exempt from the state's emissions inspection requirements pursuant to Texas Health and Safety Code §382.203(a)(2) (exempting vehicles twenty five years old or older). In addition, pursuant to federal Environmental Protection Agency regulations, model year 1996 and newer vehicles are equipped with on-board diagnostics (OBD) systems that enable emissions tests using the vehicle's computer and which render tailpipe tests unnecessary. For these reasons the tailpipe tests and the equipment necessary to conduct them are no longer be necessary as of January 1, 2020.


No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Transportation Code, §548.002, which authorizes the Department of Public Safety to adopt rules to enforce Chapter 548.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, §2001.033.



Steven P. Mach, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On April 17, 2020, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Vehicle Inspection
Title 37 T.A.C. Part I, Chapter 23
Subchapter E
Section 23.56

The Texas Department of Public Safety (the department) adopts the repeal of §23.56, concerning Waiver for Low Volume Emissions Inspection Stations. This repeal is adopted without changes to the proposed text as published in the February 28, 2020 issue of the *Texas Register* (45 TexReg 1372) and will not be republished.

This repeal addresses changes to the vehicle emission test requirements that became effective January 1, 2020.

Section 23.56 authorizes a waiver from the requirement that vehicle emissions inspection stations maintain the equipment necessary to conduct vehicle emissions tailpipe tests. These tests, and the equipment necessary to conduct them, are no longer necessary as of January 1, 2020. On that date, model year 1995 vehicles became exempt from the state's emissions inspection requirements pursuant to Texas Health and Safety Code, §382.203(a)(2) (exempting vehicles twenty five years old or older). In addition, pursuant to federal Environmental Protection Agency regulations, model year 1996 and newer vehicles are equipped with on-board diagnostics (OBD) systems that enable emissions tests using the vehicle's computer and which render tailpipe tests unnecessary. For these reasons the tailpipe tests and the equipment necessary to conduct them are no longer necessary as of January 1, 2020, and §23.56's waiver therefore is unnecessary.


No comments were received regarding the adoption of this repeal.

This repeal is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §548.002, which authorizes the Department of Public Safety to adopt rules to enforce Chapter 548.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, §2001.033.



Steven P. Mach, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On April 17, 2020, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Vehicle Inspection
Title 37 T.A.C. Part I, Chapter 23
Subchapter F
Section 23.62 and Section 23.63

The Texas Department of Public Safety (the department) adopts amendments to §23.62 and §23.63, concerning Violations and Administrative Penalties. These rules are adopted without changes to the proposed text as published in the February 28, 2020 issue of the *Texas Register* (45 TexReg 1373) and will not be republished.

The adopted amendments reflect Senate Bill 616's authorization for the adoption of procedures relating to the informal resolution of complaints against vehicle inspectors and inspection stations and the development of a penalty schedule for violations of a law or rule relating to the inspection of vehicles. The amendments also remove statutory references to Texas Transportation Code, §548.405 and §548.407, which were repealed by Senate Bill 616.

No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Government Code Chapter 411, Subchapters Q and R, which authorize the Public Safety Commission to adopt rules governing various regulatory programs, including that of the Vehicle Inspection program; and Texas Transportation Code, §548.002, which authorizes the Department of Public Safety to adopt rules to enforce Chapter 548.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, §2001.033.



Steven P. Mach, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On April 17, 2020, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Metal Recycling Entities
Title 37 T.A.C. Part I, Chapter 36
Subchapter A
Section 36.1

The Texas Department of Public Safety (the department) adopts amendments to §36.1, concerning Definitions. This rule is adopted without changes to the proposed text as published in the February 28, 2020 issue of the *Texas Register* (45 TexReg 1377) and will not be republished.

These rule changes clarify certain terms and enhance the department's regulatory oversight of the Metal Recycling Entities Program.


No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Occupations Code, §1956.013, which authorizes the commission to adopt rules to administer Chapter 1956.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, §2001.033.



Steven P. Mach, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On April 17, 2020, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Metal Recycling Entities
Title 37 T.A.C. Part I, Chapter 36
Subchapter B
Section 36.11

The Texas Department of Public Safety (the department) adopts amendments to §36.11, concerning Application for Certificate of Registration. This rule is adopted without changes to the proposed text as published in the February 28, 2020 issue of the *Texas Register* (45 TexReg 1378) and will not be republished.

These rule changes clarify certain terms and enhance the department's regulatory oversight of the Metal Recycling Entities Program.

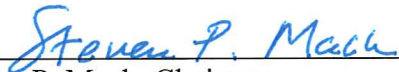
No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Occupations Code, §1956.013, which authorizes the commission to adopt rules to administer Chapter 1956.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, §2001.033.



Steven P. Mach, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On April 17, 2020, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Metal Recycling Entities
Title 37 T.A.C. Part I, Chapter 36
Subchapter C
Section 36.34 and Section 36.36

The Texas Department of Public Safety (the department) adopts amendments to §36.34 and §36.36, concerning Practice by Certificate Holders and Reporting Requirements. These rules are adopted without changes to the proposed text as published in the February 28, 2020 issue of the *Texas Register* (45 TexReg 1379) and will not be republished.

These rule changes clarify certain terms and enhance the department's regulatory oversight of the Metal Recycling Entities Program.

No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Occupations Code, §1956.013, which authorizes the commission to adopt rules to administer Chapter 1956.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, §2001.033.



Steven P. Mach, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On April 17, 2020, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Metal Recycling Entities
Title 37 T.A.C. Part I, Chapter 36
Subchapter E
Sections 36.51, 36.53, 36.55 – 36.57

The Texas Department of Public Safety (the department) adopts amendments to §§36.51, 36.53, 36.55, 36.56, and new §36.57, concerning Disciplinary Procedures and Administrative Procedures. These rules are adopted without changes to the proposed text as published in the February 28, 2020 issue of the Texas Register (45 TexReg 1380) and will not be republished.

These rule changes are in part necessary to clarify the scope of the department's regulatory authority, and in part to implement Senate Bill 616, 86th Legislative Session. Senate Bill 616 requires the adoption of procedures for the informal resolution of complaints against metals recycling entities. In addition, changes to §36.55 implement House Bill 1342, 86th Legislative Session, which amended Occupations Code, §§53.021, 53.022, and 53.023. Other rule changes simplify the rules or enhance the department's regulatory oversight of the Metal Recycling Entities Program.

No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Occupations Code, §1956.013, which authorizes the commission to adopt rules to administer Chapter 1956.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, §2001.033.



Steven P. Mach, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On April 17, 2020, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Metal Recycling Entities
Title 37 T.A.C. Part I, Chapter 36
Subchapter E
Sections 36.57 – 36.59

The Texas Department of Public Safety (the department) adopts the repeal of §§36.57 - 36.59, concerning Disciplinary Procedures and Administrative Procedures. This repeal is adopted without changes to the proposed text as published in the February 28, 2020 issue of the *Texas Register* (45 TexReg 1382) and will not be republished.

The repeal of these rules is adopted in conjunction with other amendments to the rules relating to hearings. The adopted amendments require the renumbering of the rules, and also provide the opportunity to repeal rules that are duplicative of other department-wide rules.


No comments were received regarding the adoption of this repeal.

This repeal is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Occupations Code, §1956.013, which authorizes the commission to adopt rules to administer Chapter 1956.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, §2001.033.



Steven P. Mach, Chairman
Public Safety Commission

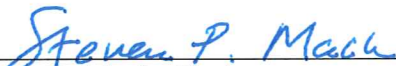
IN THE MATTER OF § BEFORE THE
THE DISCHARGE OF § PUBLIC SAFETY COMMISSION
PROBATIONARY EMPLOYEES § IN AUSTIN, TRAVIS COUNTY, TX

Advice and Consent

In accordance with Government Code Section 411.007(f), the Director found that the following named probationary employees were unsuitable for continued employment in the Department of Public Safety. The Public Safety Commission has consented to discharge these employees:

Employee Name	Employee Title/Division	Date of Discharge
Astrid Gonzalez	Trooper Trainee/Education, Training and Research	02/27/2020
Maureen Vale	Training Specialist/Infrastructure Operations	03/05/2020
Gabriel Meza	Trooper Trainee/Education, Training and Research	03/06/2020

Approved:



Steven P. Mach, Chairman
Public Safety Commission
Date: April 13, 2020

**SPECIAL RANGER /
SPECIAL TEXAS RANGER APPLICANTS
April 17, 2020**

Special Ranger Applicants:

Name	Division	Service/Station	Retire Date	Years of Service	Approved
Bigham, Larry C.	THP	Canton	08/31/2003	47	
Byrd, Joe S.	CID	El Paso	02/29/2020	25	
Castillo, Gregg A.	TRD-SWAT	Edinburg	01/31/2020	26	
Eden, Bruce G.	THP	Belton	05/31/2009	40	
Faulkner, Jr., James R.	THP	Center	02/29/2020	24	
Jenkins, Marvin G.	THP	Palestine	01/31/2020	24	
Joy, Jr., Ronald C.	THP	Austin	02/29/2020	30	
Ladd, Billy M.	THP	Waco	02/29/2008	44	

Special Texas Ranger Applicants:

Name	Division	Service/Station	Retire Date	Years of Service	Approved
Garcia, Robert L.	TRD	McAllen	1/31/2020	25	
Valdez, Jesus J.	TRD	San Antonio	01/31/2020	24	

Approved by the Public Safety Commission on: Steven P. Mach Date: 4/23/20