

**MINUTES
PUBLIC SAFETY COMMISSION
February 10, 2004
Austin, Texas**

The Public Safety Commission met in Austin, Texas on February 10, 2004. Attending the meeting were Chairman Colleen McHugh and Commissioner Robert Holt.

DPS Staff members present:

Tommy Davis, Director
David McEathron, Assistant Director
Tom Haas, Accounting & Budget Control
Randy Elliston, Lamar Beckworth, Bob Burroughs & Mark Rogers, Highway Patrol Division
C. J. Havrda & Earl Pearson, Rangers
Marshall Caskey, Criminal Law Enforcement
Burton Christian, Administration
Judy Brown, Greg Gloria, Frank Elder, Bryan Lane, Driver License
Farrell Walker, Audit & Inspection
Mary Ann Courter, General Counsel
Mary Lauderdale & Ed Kelly, Information Management Service
Tela Mange, Public Information
David Outon, Internal Affairs
Steve Powell, Aircraft
Andy Mokry & Tavia Wendlandt, Building Program
Michael Kelley, Legislative Liaison
Dorothy Wright, Secretary

Guests present:

Alfonso Royal, Legislative Budget Board
Donna Clay, Allied Consultants
Janna Burleson, Governor's Office

The meeting was called to order by Chairman McHugh. Proper notice had been posted.

- I. **Minutes.** Upon motion by Commissioner Holt and seconded by Commissioner McHugh, the minutes of the November 25, 2003 meeting were approved.
- II. **Public comment.** There was no public comment.
- III. **Budget matters.** Tom Haas gave the budget report. There was some discussion on preliminary planning for the FY06-07 LAR.
 - A. **Acceptance of computer equipment from Criminal Information Sharing Alliance.** Marshall Caskey briefed the Commission on the proposed donation. Upon motion by Commissioner Holt and seconded by Commissioner McHugh, the donation was accepted for use by the Criminal Law Enforcement Division.
- IV. **Audit & Inspection Report.** Farrell Walker gave the Audit & Inspection report.

- V. **Division reports.** Burt Christian gave the Administration Division report. There was some discussion on the new Regulatory Licensing Service, fleet vehicle program and building projects. Colonel Davis presented Chief Christian with a 30 year service certificate. Randy Elliston gave the Texas Highway Patrol Division report. There was some discussion on traffic enforcement efforts, dive team activities, TLE drug interdictions, and the acquisition of "less than lethal impact" munitions for civil disturbance teams. The Driver License Division report was given by Judy Brown. There was some discussion on the DL reengineering and CRIS projects and continuing Texas online marketing efforts. Marshall Caskey gave the Criminal Law Enforcement Division report. There was some discussion on the Missing Persons Clearinghouse and CODIS and DNA forensic case backlogs. The Ranger report was given by C. J. Havrda. Mary Lauderdale gave the Information Management Service report. Bob Burroughs gave an update on joint efforts between DPS and the Texas Commission on Environmental Quality (TCEQ) for implementation of the State's vehicle emissions inspection/maintenance program. Mark Rogers updated the Commission on the border safety inspection stations.
- VI. **Appointment of Inspection & Maintenance Advisory Committee member for calendar year 2004.** Bob Burroughs briefed the Commission on the need for naming a committee member. Upon motion by Commissioner Holt and seconded by Commissioner McHugh, Brenda Ackerman Siosson was reappointed to the Inspection & Maintenance Advisory Committee for a two year term.
- VII. **For publication for public comment.**
- A. **Proposed amendment to Rule 16.40, 37 TAC Sec. 16.40, relating to documents acceptable for proof of Social Security Number (SSN) when applying for a commercial driver license.** Frank Elder briefed the Commission on the proposed amendment. Upon motion by Commissioner Holt and seconded by Commissioner McHugh, the attached amendment was unanimously approved for publication for public comment.
- B. **Proposed amendments to Rule 21.1, 37 TAC Sec. 21.1, relating to specifications and performance standards for vehicle equipment**
- C. **Proposed amendment to Rule 23.15, 37 TAC Sec. 23.15, relating to inspection station and certified inspector denial, revocation, suspensions and administrative hearings**
Bob Burroughs briefed the Commission on the above proposed amendments. Upon motion by Commissioner Holt and seconded by Commissioner McHugh, the attached amendments were unanimously approved for publication for public comment.
- VIII. **For final adoption.**
- A. **Proposed amendment to Rule 1.129, 37 TAC Sec. 1.129, relating to fees for sale of motor vehicle accident reports in Highway Patrol Offices, as published in 28 TexReg 10081, November 14, 2003.** Mary Ann Courter briefed the Commission on the proposed amendment. Upon motion by Commissioner Holt and seconded by Commissioner McHugh, the attached amendment was unanimously approved for final adoption.
- B. **Proposed repeal of Rules 3.59 & 3.62, 37 TAC Secs. 3.59 & 3.62, relating to traffic supervision, as published in 28 TexReg 10081, November 14, 2003**

- C. Proposed repeal of Rule 3.74, 37 TAC Sec. 3.74, relating to inspection requirements on commercial motor vehicles under Texas-New Mexico Reciprocal and Proration Agreement, as published in 28 TexReg 10082, November 14, 2003**
- D. Proposed repeal of Rule 3.101, 37 TAC Sec. 3.101, relating to on-site coordination of hazardous material transportation emergencies, as published in 28 TexReg 10082, November 14, 2003**
- E. Proposed repeal of Rule 3.111, 37 TAC Sec. 3.111, relating to animal health Memorandum of Understanding, as published in 28 TexReg 10083, November 14, 2003**
- F. Proposed repeal of Rules 4.1-4.10, 37 TAC Secs. 4.1-4.10, relating to protection of state buildings and grounds, as published in 28 TexReg 10093, November 14, 2003**
- G. Proposed repeal of Rules 4.31-4.46, 37 TAC Secs. 4.31-4.46, relating to parking and traffic administration, as published in 28 TexReg 10094, November 14, 2003**
- H. Proposed repeal of Rules 11.1-11.5, 37 TAC Secs. 11.1-11.5, relating to commercial vehicle registration enforcement, as published in 28 TexReg 10108, November 14, 2003**
- I. Proposed repeal of Rules 11.51-11.53, 37 TAC Secs. 11.51-11.53, relating to weight law enforcement, as published in 28 TexReg 10109, November 14, 2003**
- J. Proposed repeal of Rule 11.61, 37 TAC Sec. 11.61, relating to vehicle size limitations and special permits, as published in 28 TexReg 10109, November 14, 2003**
- K. Proposed repeal of Rule 21.6, 37 TAC Sec. 21.6, relating to minimum standards for scales not furnished by the Texas Department of Public Safety and used for law enforcement purposes, as published in 28 TexReg 10110, November 14, 2003**
- L. Proposed repeal of Rules 23.101 & 23.102, 37 TAC Secs. 23.101 & 23.102, relating to commercial motor vehicle compulsory inspection program, as published in 28 TexReg 10110, November 14, 2003**
- M. Proposed Rules 3.141-3.150 & 3.161-3.176, 37 TAC Secs. 3.141-3.150 & 3.161-3.176, relating to protection of state buildings and grounds and parking and traffic administration, as published in 28 TexReg 10083-10093, November 14, 2003**
- N. Proposed Rules 4.1, 4.2, 4.11-4.20, 4.31-4.37 & 4.51-4.55, 37 TAC Secs. 4.1, 4.2, 4.11-4.20, 4.31-4.37 & 4.51-4.55, relating to commercial vehicle regulations and enforcement procedures, as published in 28 TexReg 10094-10108, November 14, 2003**

Mary Ann Courter briefed the Commission on the above proposed repeals and rules. Upon motion by Commissioner Holt and seconded by Commissioner McHugh, the attached repeals and rules were unanimously approved for final adoption.
- O. Proposed amendment to Rule 14.1, 37 TAC Sec. 14.1, relating to school bus transportation and requirement that school bus drivers complete a new updated form to determine physical fitness, as published in 28 TexReg 11237, December 19, 2003**
- P. Proposed amendments to Rules 14.51 & 14.52 and new Rule 14.53, 37 TAC Secs. 14.51, 14.52 & 14.53, relating to school bus specifications; clarification as to**

compliance of open-enrollment charter schools, clarification of which school bus specification publications will be used, and requirement that vendors certify that school buses meet all standards and specifications prior to sale or use by the school system, as published in 28 TexReg 11238, December 19, 2003

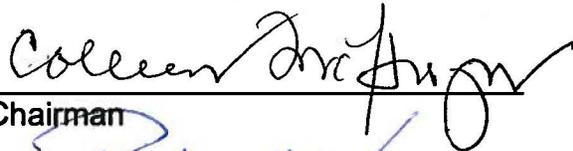
Q. Proposed amendment to Rule 14.61, 37 TAC Sec. 14.61, relating to Department of Public Safety being the primary agency responsible for school bus specifications, as published in 28 TexReg 11240, December 19, 2003

Mary Ann Courter briefed the Commission on the above proposed amendments and rule. Upon motion by Commissioner Holt and seconded by Commissioner McHugh, the attached amendments and rule were unanimously approved for final adoption with the clarified change as noted.

IX. Personnel matters; pending and contemplated litigation; ongoing criminal investigations; status of purchase of real property. The Commission went into Executive Session pursuant to Tex. Gov. Code Secs. 551.071, 551.074, 551.072 & 411.0041 to discuss personnel matters including the Director's intent to discharge probationary employees, Special Ranger and Special Texas Ranger commissions; pending and contemplated litigation; status of purchase of real property; and ongoing criminal investigations. Upon reconvening Regular Session, Commissioner McHugh announced that the Commission had discussed personnel matters, pending litigation and ongoing criminal investigations. Upon motion by Commissioner Holt and seconded by Commissioner McHugh, the Commission unanimously consented to the Director's discharge of probationary employee Gary Lehmberg. Special Ranger commissions had been considered for DPS retirees Alfree Banks, Jimmy Bishop, Louis Cardinal, Errol Haegelin, Gerald W. Hildebrand, Nicky W. Kelley and Dudley Speed. Upon motion by Commissioner Holt and seconded by Commissioner McHugh, Special Ranger commissions were approved for the above named individuals.

A motion was made by Commissioner Holt and seconded by Commissioner McHugh adjourning the meeting.

Read and approved this 30th day of March, 2004.



Chairman



Member

Member

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 10, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Organization and Administration
Title 37 T.A.C. Part I, Chapter 1
Subchapter I
Section Number 1.129

The Texas Department of Public Safety adopts an amendment to Section 1.129, concerning Fees For Copies Of Records, without changes to the proposed text as published in the November 14, 2003, issue of the Texas Register (28 TexReg 10081).

Amendment to the section is necessary in order to make department policy consistent with current practices.

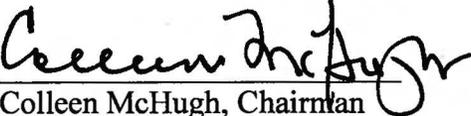
No comments were received regarding adoption of the amendment.

The amendment is adopted pursuant to Texas Government Code, Section 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, Section 550.065.

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, Section 2001.033.


Colleen McHugh, Chairman
Public Safety Commission



TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 10, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Traffic Law Enforcement
Title 37 T.A.C. Part I, Chapter 3
Subchapter D
Section Numbers 3.59, 3.62

The Texas Department of Public Safety (DPS) adopts the repeal of Section 3.59 and Section 3.62, concerning Traffic Supervision, without changes to the proposed text as published in the November 14, 2003, issue of the Texas Register (28 TexReg 10081).

Because of reorganization within the DPS, the sections are repealed in order to relocate them within a different chapter where they would be better situated. The repealed sections are simultaneously being adopted as new sections within a new Chapter 4.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Government Code, Section 411.018, which authorizes the director to adopt rules regulating the safe operation of commercial motor vehicles and the safe transportation of hazardous materials.

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, Section 2001.033.


Colleen McHugh, Chairman
Public Safety Commission



TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 10, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Traffic Law Enforcement
Title 37 T.A.C. Part I, Chapter 3
Subchapter E
Section Number 3.74

The Texas Department of Public Safety (DPS) adopts the repeal of Section 3.74, concerning Inspection Requirements on Commercial Motor Vehicles Under Texas-New Mexico Reciprocal and Proration Agreement, without changes to the proposed text as published in the November 14, 2003, issue of the Texas Register (28 TexReg 10082).

Because of reorganization within the DPS, the section is repealed in order to relocate it within a different chapter where it would be better situated. The repealed section is simultaneously being adopted as a new section within a new Chapter 4.

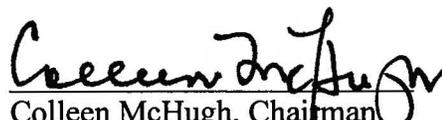
No comments were received regarding adoption of the repeal.

The repeal is adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and Texas Government Code, Section 411.006(4), which provides the director with the authority to establish rules for the conduct of the work of the Texas Department of Public Safety.

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, Section 2001.033.


Colleen McHugh, Chairman
Public Safety Commission

5/04

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 10, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Traffic Law Enforcement
Title 37 T.A.C. Part I, Chapter 3
Subchapter G
Section Number 3.101

The Texas Department of Public Safety (DPS) adopts the repeal of Subchapter G, Section 3.101, concerning On-Site Coordination (OSC) of Hazardous Material Transportation Emergencies, without changes to the proposed text as published in the November 14, 2003, issue of the Texas Register (28 TexReg 10082).

Because of reorganization within the DPS, the section is repealed in order to relocate it within a different chapter where it would be better situated. The repealed section is simultaneously being adopted as a new section within a new Chapter 4.

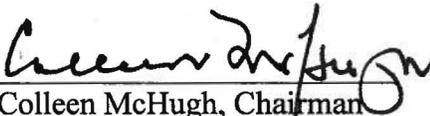
No comments were received regarding adoption of the repeal.

The repeal is adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and Texas Government Code, Section 411.018, which authorizes the director to adopt rules regulating the safe operation of commercial motor vehicles and the safe transportation of hazardous materials.

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, Section 2001.033.


Colleen McHugh, Chairman
Public Safety Commission



TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 10, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Traffic Law Enforcement
Title 37 T.A.C. Part I, Chapter 3
Subchapter H
Section Number 3.111

The Texas Department of Public Safety (DPS) adopts the repeal of Subchapter H, Section 3.111, concerning Animal Health Memorandum of Understanding, without changes to the proposed text as published in the November 14, 2003, issue of the Texas Register (28 TexReg 10083).

Because of reorganization within the DPS, the section is repealed in order to relocate it within a different chapter where it would be better situated. The repealed section is simultaneously being adopted as a new section within a new Chapter 4.

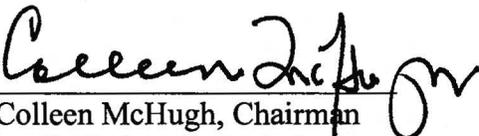
No comments were received regarding adoption of the repeal.

The repeal is proposed pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and Texas Agriculture Code, Section 161.051.

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, Section 2001.033.


Colleen McHugh, Chairman
Public Safety Commission



TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 10, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Capitol Police
Title 37 T.A.C. Part I, Chapter 4
Subchapter A
Section Numbers 4.1 – 4.10

The Texas Department of Public Safety (DPS) adopts the repeal of Subchapter A, Sections 4.1-4.10, concerning Protection Of State Buildings And Grounds, without changes to the proposed text as published in the November 14, 2003, issue of the Texas Register (28 TexReg 10093).

Because of reorganization within the DPS, the sections are repealed in order to relocate them within a different chapter where they would be better situated. The repealed sections are simultaneously being adopted as new sections within Chapter 3.

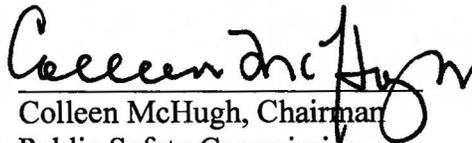
No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Government Code, Section 411.062, which authorizes the department to adopt rules relating to the security of persons and property within the Capitol Complex.

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, Section 2001.033.


Colleen McHugh, Chairman
Public Safety Commission



TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 10, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Capitol Police
Title 37 T.A.C. Part I, Chapter 4
Subchapter B
Section Numbers 4.31 – 4.46

The Texas Department of Public Safety (DPS) adopts the repeal of Subchapter B, Sections 4.31-4.46, concerning Parking And Traffic Administration, without changes to the proposed text as published in the November 14, 2003, issue of the Texas Register (28 TexReg 10094).

Because of reorganization within the DPS, the sections are repealed in order to relocate them within a different chapter where they would be better situated. The repealed sections are simultaneously being adopted as new sections within Chapter 3.

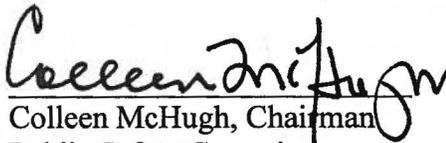
No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Government Code, Sections 411.062, 411.063 and 411.067, which authorize the department to adopt rules related to parking and security in the Capitol Complex.

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, Section 2001.033.


Colleen McHugh, Chairman
Public Safety Commission



TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 10, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Commercial Vehicle Registration
Title 37 T.A.C. Part I, Chapter 11
Subchapter A
Section Numbers 11.1 – 11.5

The Texas Department of Public Safety (DPS) adopts the repeal of Subchapter A, Sections 11.1-11.5, concerning Commercial Vehicle Registration Enforcement, without changes to the proposed text as published in the November 14, 2003, issue of the Texas Register (28 TexReg 10108).

Because of reorganization within the DPS, the sections are repealed in order to relocate them within a different chapter where they would be better situated. The repealed sections are simultaneously being adopted as new sections within a new Chapter 4.

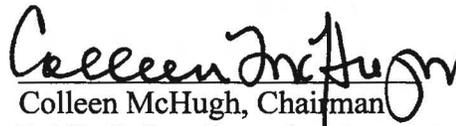
No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work.

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, Section 2001.033.


Colleen McHugh, Chairman
Public Safety Commission



TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 10, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Commercial Vehicle Registration
Title 37 T.A.C. Part I, Chapter 11
Subchapter D
Section Numbers 11.51 – 11.53

The Texas Department of Public Safety (DPS) adopts the repeal of Subchapter D, Sections 11.51-11.53, concerning Weight Law Enforcement, without changes to the proposed text as published in the November 14, 2003, issue of the Texas Register (28 TexReg 10109).

Because of reorganization within the DPS, the sections are repealed in order to relocate them within a different chapter where they would be better situated. The repealed sections are simultaneously being adopted as new sections within a new Chapter 4.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work.

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, Section 2001.033.


Colleen McHugh, Chairman
Public Safety Commission



TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 10, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Commercial Vehicle Registration
Title 37 T.A.C. Part I, Chapter 11
Subchapter E
Section Number 11.61

The Texas Department of Public Safety (DPS) adopts the repeal of Subchapter E, Section 11.61, concerning Vehicle Size Limitations And Special Permits, without changes to the proposed text as published in the November 14, 2003, issue of the Texas Register (28 TexReg 10109).

Because of reorganization within the DPS, the section is repealed in order to relocate it within a different chapter where it would be better situated. The repealed section is simultaneously being adopted as a new section within a new Chapter 4.

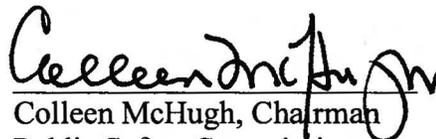
No comments were received regarding repeal of the section.

The repeal is adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work.

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, Section 2001.033.


Colleen McHugh, Chairman
Public Safety Commission



TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 10, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Equipment and Vehicle Standards
Title 37 T.A.C. Part I, Chapter 21
Section Number 21.6

The Texas Department of Public Safety (DPS) adopts the repeal of Section 21.6, concerning Minimum Standards for Scales Not Furnished by the Texas Department of Public Safety and Used for Law Enforcement Purposes, without changes to the proposed text as published in the November 14, 2003, issue of the Texas Register (28 TexReg 10110).

Because of reorganization within the DPS, the section is repealed in order to relocate it within a different chapter where it would be better situated. The repealed section is simultaneously being adopted as a new section within a new Chapter 4.

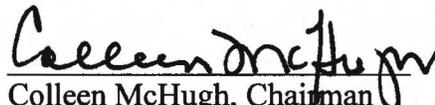
No comments were received regarding adoption of the repeal.

The repeal is adopted pursuant to Texas Government Code, Section 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, Section 621.402.

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, Section 2001.033.


Colleen McHugh, Chairman
Public Safety Commission



TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 10, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Vehicle Inspection
Title 37 T.A.C. Part I, Chapter 23
Subchapter H
Section Numbers 23.101, 23.102

The Texas Department of Public Safety (DPS) adopts the repeal of Subchapter H, Section 23.101 and Section 23.102, concerning Commercial Motor Vehicle Compulsory Inspection Program, without changes to the proposed text as published in the November 14, 2003, issue of the Texas Register (28 TexReg 10110).

Because of reorganization within the DPS, the sections are repealed in order to relocate them within a different chapter where they would be better situated. The repealed sections are simultaneously being adopted as new sections within a new Chapter 4.

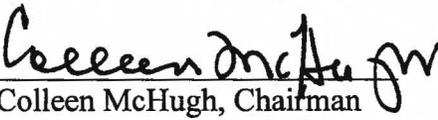
No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Government Code, Section 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, Section 548.504 and Section 548.5055.

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, Section 2001.033.


Colleen McHugh, Chairman
Public Safety Commission



TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 10, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Texas Highway Patrol
Title 37 T.A.C. Part I, Chapter 3
Subchapters J and K
Section Numbers 3.141 – 3.150 and 3.161 – 3.176

The Texas Department of Public Safety (DPS) adopts new Subchapter J and Subchapter K, Sections 3.141-3.150 and 3.161-3.176, concerning Protection of State Buildings and Grounds and Parking and Traffic Administration, without changes to the proposed text as published in the November 14, 2003, issue of the Texas Register (28 TexReg 10083-10093).

These new subchapters are adopted simultaneously with the adopted repeal of current Chapter 4, Subchapters A and B, Sections 4.1-4.10 and 4.31-4.46. Because of reorganization within the DPS, the department has reviewed its rules and determined that certain sections would be better situated within different chapters. Also due to this reorganization, the department has changed the title of Chapter 3 from Traffic Law Enforcement to Texas Highway Patrol.

Subchapter A: Protection of State Buildings and Grounds. These sections are necessary to provide a safe work environment for state officials and employees, to protect the grounds, public buildings, and property of the state, to regulate entrance to and public use of state-owned buildings, and to investigate criminal activity. These sections further promulgate regulations for evacuations, after-hour entrance, and control of key and lock systems.

Subchapter B: Grounds and Parking Administration. These sections are necessary to provide for the most equitable and economical parking facilities for state employees, state officials, and the visiting public. The sections further promulgate regulations regarding reserved parking, free parking, car pooling, traffic control, handicapped parking, impoundment of vehicles, penalties for violation, and administrative adjudication.

No comments were received regarding adoption of the new sections.

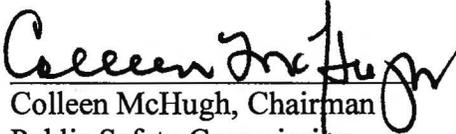
The new sections are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules, considered necessary for carrying out the department's work; Texas Government Code, Section 411.006(4), which provides the director with the authority to adopt rules, subject to commission approval, considered necessary for the control of the department; and Texas Government Code, Section 411.062, which authorizes the department to adopt rules relating to the security of persons and property within the Capitol Complex.

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.

WBC

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, Section 2001.033.


Colleen McHugh, Chairman
Public Safety Commission

MAC

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 10, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Commercial Vehicle Regulations and Enforcement Procedures
Title 37 T.A.C. Part I, Chapter 4
Subchapters A-D
Section Numbers 4.1, 4.2, 4.11-4.20, 4.31-4.37, and 4.51-4.55

The Texas Department of Public adopts new Chapter 4, Subchapters A-D, Sections 4.1, 4.2, 4.11-4.20, 4.31-4.37, and 4.51-4.55, concerning Commercial Vehicle Regulations and Enforcement Procedures, without changes to the proposed text as published in the November 14, 2003, issue of the *Texas Register* (28 TexReg 10094-10108).

The adoption of this new chapter 4 is filed simultaneously with the adopted repeal of current Chapter 4 (Capitol Police) in its entirety and current sections 3.59, 3.62, 3.74, 3.101, 3.111, 11.1-11.5, 11.51-11.53, 11.61, 21.6, 23.101, and 23.102. The department is also simultaneously adopting new rules relating to Capitol Police which are now located in 37 TAC Chapter 3. Because sections 3.59, 3.62, 3.74, 3.101, 3.111, 11.1-11.5, 11.51-11.53, 11.61, 21.6, 23.101, and 23.102 all pertain to some type of commercial vehicle enforcement procedures, they are also being simultaneously adopted as new sections within this new Chapter 4. The department believes that by combining all commercial vehicle enforcement regulations and procedures into one chapter, the public and motor carriers will have greater access to the rules promulgated by the agency that address commercial vehicle enforcement procedures.

Subchapter A: Regulations Governing Hazardous Materials. This subchapter contains all of the regulations that address the safe transportation of hazardous materials and the procedures for the mitigation of hazardous material transportation emergencies. The subchapter incorporates amendments and changes made to the Federal Hazardous Material Regulations by the U.S. Department of Transportation, thereby ensuring that the department's rule for the transportation of hazardous material reflects current federal regulations.

Subchapter B: Regulations governing Transportation Safety. This subchapter contains all of the regulations that address the safe operation of commercial motor vehicles in Texas. This subchapter incorporates changes made to Texas Transportation Code, Chapters 548 and 644, by the 78th Texas Legislature, Regular Session (2003) in Senate Bill 1184 and House Bill 3588. The rules incorporate changes to the definition of the term "commercial vehicle," changes to the procedures used by the department in the assessment of administrative penalties, changes in the hours of service regulations for commercial vehicles operating intrastate, and incorporate recent changes made to the Federal Motor Carrier Safety Regulations by the U.S. Department of Transportation.

Subchapter C: Commercial Vehicle Registration and Inspection Enforcement. This subchapter consolidates the basic enforcement guidelines for the registration requirements of commercial motor vehicles into one subchapter so that the public and motor carriers will have greater access to these rules. The subchapter also incorporates the commercial motor vehicle compulsory inspection program into one subchapter so that the public and motor carriers will have greater access to these rules. Changes to the term "commercial vehicle" are incorporated into the rules per the requirements of Senate Bill 1184 and House Bill 3588.

MAC

Subchapter D: Commercial Vehicle Weight, Length, and Size Enforcement. This subchapter consolidates the requirements for weighing and reducing excess cargo from loaded vehicles, the minimum standards for scales used for law enforcement purposes, and the methods used by the department to determine allowable vehicle length into one subchapter so that the public and motor carriers will have greater access to these rules.

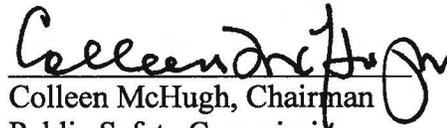
On December 30, 2003, the department held a public hearing to receive comment(s) from all interested person(s) regarding adoption of the new sections. No person(s) appeared at the public hearing nor were any comment(s) received.

The new sections are adopted pursuant to Texas Government Code, Sections 411.004(3), 411.006(4) and 411.018, which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and which authorizes the director to adopt rules regulating the safe operation of commercial motor vehicles and the safe transportation of hazardous materials; and Texas Transportation Code, Section 548.002 and Section 644.003.

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, Section 2001.033.


Colleen McHugh, Chairman
Public Safety Commission



TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 10, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

School Bus Safety Standards
Title 37 T.A.C. Part I, Chapter 14
Subchapter A
Section Number 14.1

The Texas Department of Public Safety adopts an amendment to Section 14.1, concerning School Bus Transportation, without changes to the proposed text as published in the December 19, 2003, issue of the Texas Register (28 TexReg 11237).

Amendment to the section is necessary in order to update Figure 1: 37 TAC Section 14.1 with the current Medical Examination Report for Commercial Driver Fitness Determination form as required by the Federal Motor Carrier Safety Administration.

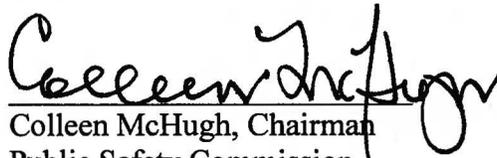
No comments were received regarding adoption of the amendment.

The amendment is adopted pursuant to Texas Government Code, Section 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, Section 521.022, which requires the Texas Department of Public Safety to adopt rules and procedures necessary for determining school bus driver employment eligibility and School Bus Driver Safety Training Program requirements; and Texas Transportation Code, Section 521.005, which authorizes the department to adopt rules necessary to administer Chapter 521 of the Transportation Code.

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, Section 2001.033.


Colleen McHugh, Chairman
Public Safety Commission



TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 10, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

School Bus Safety Standards
Title 37 T.A.C. Part I, Chapter 14
Subchapter D
Section Numbers 14.51 – 14.53

The Texas Department of Public Safety adopts amendments to Section 14.51 and Section 14.52, and new Section 14.53, concerning School Bus Safety Standards. Section 14.52 and Section 14.53 are adopted without changes to the proposed text as published in the December 19, 2003, issue of the Texas Register (28 TexReg 11238) and will not be republished. Section 14.51 is adopted with changes and will be republished.

For consistency purposes, the title of the subchapter has been changed from "School Bus Transportation" to "School Bus Safety Standards" as a result of the passage of House Bill 3042, 78th Legislature, Regular Session (2003).

Amendment to Section 14.51 is necessary in order to clarify that open-enrollment charter schools must also comply with the school bus specifications as required by Texas Education Code, Section 12.109.

As a result of the passage of House Bill 3042, amendment to Section 14.52 clarifies which school bus specification publications will be used.

New Section 14.53 is necessary in order to provide for a current set of specifications for school bus chassis and body manufacturers to comply with; provides assistance for school districts in confirming that the school bus they are buying meets Texas specifications; requires manufacturers to place a decal on a Multifunction School Activity Bus (MFSAB) before delivery to the school district; and verifies compliance with Texas specifications to insure student safety. The new school bus specifications were developed after receiving input and recommendations from the Texas Education Agency, Texas Building and Procurement Commission, Texas Association of School Business Officials, National School Transportation Association, Texas Association for Pupil Transportation, and manufacturers' representatives.

The department received one written comment regarding Section 14.51. The comment was received from the Texas Education Agency (TEA). TEA's comment as well as the department's response thereto is summarized below.

COMMENT: It appears the intent of the rule will not ensure that safety standards and requirements for public school transportation provided by Independent School Districts and Open Enrollment Charter Schools is the same. If the intent is for them to be the same the requirement must be for Open Enrollment Charter Schools to also meet Texas Education Code 34.003.

SMC

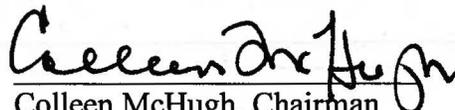
RESPONSE: The department agrees with the comments made by the Texas Education Agency and has made the appropriate changes.

The amendments and new section are adopted pursuant to Texas Government Code, Section 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, Section 547.102, which authorizes the Texas Department of Public Safety to adopt standards and specifications which apply to lighting and warning device equipment required for a school bus in order to enable school administrators to establish and operate a safer school bus transportation system and make the school bus a safer and highly identifiable vehicle on the road.

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, Section 2001.033.


Colleen McHugh, Chairman
Public Safety Commission

SMC

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 10, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

School Bus Safety Standards
Title 37 T.A.C. Part I, Chapter 14
Subchapter E
Section Number 14.61

The Texas Department of Public Safety adopts amendments to Section 14.61, concerning School Bus Transportation, without changes to the proposed text as published in the December 19, 2003, issue of the Texas Register (28 TexReg 11240).

Amendments to the section are necessary as a result of the passage of House Bill 3042, 78th Legislature, Regular Session (2003) which changed Texas Transportation Code and Texas Education Code by adding the department as the primary agency responsible for school bus specifications.

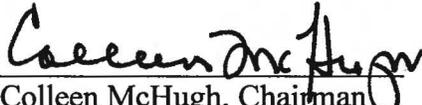
No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to Texas Government Code, Section 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, Section 547.101, which authorizes the department to adopt rules necessary to administer this chapter.

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, Section 2001.033.


Colleen McHugh, Chairman
Public Safety Commission



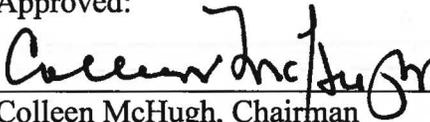
IN THE MATTER OF § BEFORE THE
THE DISCHARGE OF § PUBLIC SAFETY COMMISSION
GARY LEHMBERG, A PROBATIONARY § IN AUSTIN, TRAVIS COUNTY, TX
EMPLOYEE

Advice and Consent

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

Employee Name	Employee Title/Division	Date of Discharge
Gary Lehmberg	Trooper Trainee/Administration	12/01/2003

Approved:



Colleen McHugh, Chairman
Public Safety Commission
Date: February 10, 2004

S/MC