



TABC

TEXAS ALCOHOLIC BEVERAGE COMMISSION

service ★ courtesy ★ integrity ★ accountability

COMMISSION MEETING

March 22, 2016

Texas Alcoholic Beverage Commission
5806 Mesa Drive
Austin, Texas 78731

*José Cuevas, Jr., Presiding Officer
Midland*

*Steven M. Weinberg, MD, JD, Member
Colleyville*

*Ida Clement Steen, Member
San Antonio*

AGENDA

REGULAR COMMISSION MEETING

10:00 a.m. – March 22, 2016

**5806 Mesa Drive
Austin, Texas 78731**



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José Cuevas, Jr.
Presiding Officer-Midland

Steven M. Weinberg, MD, JD
Member-Colleyville

Ida Clement Steen
Member-San Antonio

Sherry Cook
Executive Director

Tuesday, March 22, 2016

10:00 a.m.

Agenda

1.	Call to Order	José Cuevas, Jr.
2.	Approval of Commission Meeting Minutes of January 26, 2016	José Cuevas, Jr.
3.	Recognition of Recipients for the 2015 José Cuevas, Jr. Gold Star Award	José Cuevas, Jr.
4.	Recognition of Recipient for the 2015 Sherry Cook Leadership Award	Sherry Cook
5.	Reception Honoring Award Recipients	José Cuevas, Jr.
6.	Commission Report: Executive Director and Agency Activities, Budget Issues, Staff Achievements, Legislative Activities	Sherry Cook
7.	Information Resources Division Briefing	Jay Webster
8.	Licensing Division Briefing	Amy Harrison
9.	Internal Audit of the Field Operations Audit Administration	Monday Rufus
10.	Executive Session to Consult with Legal Counsel Regarding Pending and Anticipated Litigation Against the Agency and to Deliberate on the Appointment, Employment, Evaluation, and Duties of the Positions of Executive Director and General Counsel (Govt. Code §551.071, §551.074, and Texas Alcoholic Beverage Code §5.11)	José Cuevas, Jr.
11.	Action on Items Discussed in Executive Session	José Cuevas, Jr.

12.	Adopt Amendments to Rule §33.9, Fees for On-Line Transactions	Martin Wilson
13.	Adopt Amendments to Rule §41.52, Private Clubs – In General	Martin Wilson
14.	Adopt Repeal of Current Rule §41.54, Destructions	Martin Wilson
15.	Adopt New Rule §41.54, Destructions	Martin Wilson
16.	Approve Publication of Notice of Proposed Review of Rule §41.20, Timely Filing of Reports	Martin Wilson
17.	Approve Publication of Notice of Proposed Review of Rule §45.101, Rebates, Coupons and Premium Stamps	Martin Wilson
18.	Approve Publication of Proposed Repeal of Rule §41.29, Bonded Warehouse Breakage	Martin Wilson
19.	Approve Publication of Proposed Amendments to Rule §41.39, Warehouse Report	Martin Wilson
20.	Approve Publication of Proposed Repeal of Rule §41.37, Industrial Alcohol Report	Martin Wilson
21.	Approve Publication of Proposed Amendments to Rule §41.21, Industrial Permits	Martin Wilson
22.	Approve Publication of Proposed Amendments to Rule §35.5, Private Carrier’s Permit Safety Program	Martin Wilson
23.	Approve Publication of Proposed Amendments to Rule §41.25, Records to be Kept Separate	Martin Wilson
24.	Approve Publication of Proposed Amendments to Rule §41.27, Tax Credit – Wine Processing	Martin Wilson
25.	Approve Publication of Proposed Amendments to Rule §41.31, Tax	Martin Wilson
26.	Approve Publication of Proposed Amendments to Rule §41.38, Carrier Report	Martin Wilson
27.	Approve Publication of Proposed Amendments to Rule §41.43, Authorization	Martin Wilson

28.	Approve Publication of Proposed Amendments to Rule §41.44, Copy	Martin Wilson
29.	Public Comments	José Cuevas, Jr.
30.	Next Meeting Date: Tuesday, May 24, 2016	José Cuevas, Jr.
31.	Adjournment	José Cuevas, Jr.

Note: *Items may not necessarily be considered in the order they appear on the agenda. Executive session for advice of Counsel (pursuant to §551.071 of the Government Code) may be called regarding any agenda item. Action may be taken on any agenda item.*

NOTICE OF ASSISTANCE AT PUBLIC MEETINGS

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services (such as interpreters for persons who are deaf, hearing impaired readers, large print, or Braille) are requested to contact Gloria Darden Reed at (512) 206-3221 (voice) (512) 206-3259 (fax). Relay Texas at 1-800-735-2989 (TTY/TDD), at least three (3) days prior to the meeting so that appropriate arrangements can be made.

MINUTES

REGULAR COMMISSION MEETING

10:00 a.m. – March 22, 2016

**5806 Mesa Drive
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COMMISSION MEETING MINUTES

March 22, 2016

The Commissioners of the Texas Alcoholic Beverage Commission (TABC) met in Regular Session on Tuesday, March 22, 2016 at TABC Headquarters, 5806 Mesa Drive, Austin, Texas.

**COMMISSIONERS
PRESENT:**

José Cuevas, Jr.
Steven Weinberg, MD, JD
Ida Clement Steen

STAFF PRESENT:

Sherry Cook, Executive Director

Joshua Alexander, Audit Supervisor, Headquarters

Jorge Alfaro Jr, Agent, Austin Regional Office

John Altum, Sergeant, Training Division

Gene Bowman, Director, Audit & Investigations Division

David Brandon, Assistant Director, Information Resources
Division

Kayla Bridgewater, Education Specialist, Education &
Prevention Division

Tiffany Burgess, Agent, New Braunfels Area Enforcement
Outpost

Dustin Carter, Quality Assurance Specialist, Ports of Entry
Division

Amanda Collins, Audit Regional Supervisor, Arlington
Regional Office

Antoine Collins, Licensing Regional Supervisor, Houston
Regional Office

Bobby Castillo, Sergeant, Odessa Area Enforcement Office

Joe Cronin, Agent, San Marcos Area Enforcement Office

Fletcher Dabera, Agent, Austin Enforcement Regional Office

Michael Deans, Agent, Llano Area Enforcement Outpost

Marc Decatur, Major, Houston Regional Enforcement Office
Luann Dickerson, Executive Assistant, Executive Division
Albert Diver, Agent Trainee, Austin Enforcement Regional
Office
Loretta Doty, Director, Human Resources Division
Diana Figueroa, Executive Assistant, Office of Professional
Responsibility
Joe Fralin, Regional Manager, San Antonio Port of Entry
Joe Franco, Agent, San Marcos Area Enforcement Office
Segbe Golanyon, Auditor, Arlington Regional Office
Thomas Graham, Director, Excise Tax and Marketing
Practices Division
Loretta Green, Regional Licensing Supervisor, Arlington
Regional Office
Jonathan Harris, Agent, New Braunfels Area Enforcement
Outpost
Amy Harrison, Director, Licensing Division
Emily Helm, General Counsel, Legal Division
Gary Henderson, Systems Analyst, Information Resources
Division
Joe Iagnemmo, Web Design Administrator, Information
Resources Division
Richard Jauregui, Major, San Antonio Regional Office
Oliver Johnson, Sergeant, San Marcos Area Enforcement
Office
Dexter Jones, Assistant Chief, Audit & Investigations Division
Ed Jones, Agent, San Marcos Area Enforcement Office
Shaun Jordan, Licensing Supervisor, Austin Regional Office
Ashlar Joseph, Inventory & Store Specialist, Fleet,
Communication and Supply Unit
Joann Joseph, Assistant Director, Licensing Division
Cassidy Kenyon, Clerk, Fleet, Communication and Supply
Unit
Jee Kim, Agent Trainee, Austin Enforcement Regional Office
Victor Kuykendoll, Major, Arlington Regional Enforcement
Office
Andrea Maceyra, Marketing Practices Supervisor, Excise Tax
& Marketing Practices Division
Boyd Magee, Agent, New Braunfels Area Enforcement
Outpost
Vanessa Mayo, Director, Business Services Division
Gabriel Medellin, Agent, Austin Enforcement Regional Office
Laramie Mergerson, Agent, Arlington Enforcement Regional
Office
Marvin Montero, Lieutenant, Enforcement Administration
Russell Moore, Agent, San Marcos Area Enforcement Office
Mariann Morelock, Director, Communications and
Governmental Relations
Harold Nanos, Major, Austin Regional Office

Earl Pearson, Assistant Chief of Enforcement
Andy Peña, Director, Office of Professional Responsibility
Jose Pineda, HQ Supervisor, Licensing Division
Chris Porter, Public Information Officer
Yvette Price, Licensing Supervisor, San Antonio Regional
Office
Gloria Darden Reed, Executive Assistant, Executive Division
Paula Reed, Assistant Director, Business Services Division
John Reney, Investigator, Office of Professional Responsibility
Julie Ross, Manager, Licensing Division
Kyle Russell, Licensing Regional Supervisor, Lubbock
Regional Office
Robert Saenz, Chief of Field Operations
Karen Smithwick, Director, Ports of Entry Division
Ron Swenson, Captain, SIU and FCU
Jay Webster, Director, Information Resources Division
Brian Williams, Lieutenant, Lubbock Enforcement Office
Martin Wilson, Assistant General Counsel, Legal Division
Jason Winter, Sergeant, Austin Regional Enforcement Office

GUESTS PRESENT:

Vic Brooks, Vice President, Republic National Distributing
Company
Deanne Franco, Guest of Joe Franco
Gabriel Franco, Guest of Joe Franco
Isabella Franco, Guest of Joe Franco
James Franco, Guest of Joe Franco
Robert Gonzales, Certified Public Accountant
Steve Greinert, Wholesale Beer Distributors of Texas
Cheri Huddleston, Legislative Consultant, Glazer's
Mignon, McGarry, Republic National Distributing Company
Fisher Reynolds, Analyst, Legislative Budget Board
Monday Rufus, Certified Public Accountant
Marcus Schwartz, Attorney, Gardere Wynn Sewell
Don Smith, Applied Information Sciences
Jared Staples, Policy Advisor, Governor's Office

CALL TO ORDER

The meeting of the Texas Alcoholic Beverage Commission was called to order at 10:12 a.m. by Presiding Officer Jose Cuevas.

APPROVAL OF COMMISSION MINUTES OF JANUARY 26, 2016

Presiding Officer Cuevas called for approval of the Commission Meeting minutes of January 26, 2016. Commissioner Steven Weinberg so moved to approve the minutes as written. Commissioner Ida Clement Steen seconded. The motion carried.

RECOGNITION OF RECIPIENTS FOR THE 2015 JOSE CUEVAS, JR. GOLD START AWARD

Executive Director Cook informed the Commissioners that the Civilian Employee of the Year recipient, Guadalupe Rueda was unable to attend the awards ceremony. She added that her award would be presented to her at a future Commission meeting.

Presiding Officer Cuevas agreed that the agency would present her award at a future Commission meeting.

Executive Director Cook stated that the Certified Peace Officer (CPO) employee of the year award recipient and his family were present at today's meeting.

Presiding Officer Cuevas invited Agent Joe Franco and his family to come forward for the award presentation.

Our employees are the driving force of this agency. They are smart, resourceful and creative. The Gold Star Award - Employee of the Year recognizes exemplary work performance and service – above and beyond the normal high expectations we have for our employees. A Gold Star Award nominee is a role model, always professional and is constantly seeking and applying new knowledge while upholding the Agency's Mission, Vision, Philosophy and Guiding Principles.

Presiding Officer Cuevas stated that it was his pleasure to award the 2015 CPO Employee of the Year Award to Joe Franco. He then read Agent Franco's bio.



Commissioner Steve Weinberg, Presiding Officer José Cuevas, Joe Franco, Family of Joe Franco, Commissioner Ida Steen, Executive Director Sherry Cook

RECOGNITION OF RECIPIENT FOR THE 2015 SHERRY COOK LEADERSHIP AWARD

Executive Director Cook announced that the 2015 Sherry Cook Leadership Award recipient is Lieutenant Marvin Montero.

Executive Director Cook asked Lieutenant Montero to come forward to receive his award. Joining Lieutenant Montero were co-workers Cassidy Kenyon and Ashlar Jordan from TABC's Fleet, Communication and Supply Unit.

The Sherry Cook Leadership Award recognizes a management level employee who exemplifies outstanding leadership and provides exemplary service. The award's purpose is to further the advancement of TABC's Mission and Vision by recognizing those who establish standards of excellence.

Executive Director Cook explained the importance of this award and how mentoring prepares agency employees to carry on the Commission as retirements and separations occur at the agency. Executive Director Cook stated that no one individual makes the Commission. She then read Lieutenant Montero's bio.

Executive Director Cook remarked that being a leader is often about attitude. She added that Lieutenant Montero's approach and attitude are both areas that he excels in.



Commissioner Steve Weinberg, Ashlar Joseph, Cassidy Kenyon, Presiding Officer José Cuevas, Marvin Montero, Executive Director Sherry Cook, Commissioner Ida Steen

RECEPTION HONORING AWARD RECIPIENTS

Presiding Officer Cuevas announced that a reception would now take place to honor the recognized employees.

COMMISSION REPORT: EXECUTIVE DIRECTOR AND AGENCY ACTIVITIES, BUDGET ISSUES, STAFF ACHIEVEMENTS, LEGISLATIVE ACTIVITIES

Presiding Officer Cuevas called upon Executive Director Sherry Cook to present the Commission Report: Executive Director and Agency Activities, Budget Issues and Staff Achievements, and Legislative Activities.

After welcoming the Commissioners back to Austin, Executive Director Cook began her presentation by announcing that the new rule books were available at today's meeting. She invited anyone interested to take a copy.

Executive Director Cook began her presentation by introducing the newest member to the TABC Team, Paula Reed, Deputy Chief Financial Officer. She highlighted Deputy Chief Reed's business and educational background.

Presiding Officer Cuevas welcomed Deputy Chief Reed to the TABC Team.

Executive Director Cook next listed some important upcoming dates of for the agency.

Executive Director Cook stated that division directors have an April 20, 2016 deadline to submit items to be considered for the Legislative Appropriations Request (LAR). She added that not all submissions will be included in the LAR, but these submissions will be used to evaluate the needs of the agency and establish priorities. Executive Director Cook stated that some of these items must be requested through the LAR because of the size and scope of what the agency is asking for. She added that other items could be absorbed by the agency or funded through grant money. Executive Director Cook stated that once all of the information is compiled, the agency will have a better understanding of what the LAR is going to look like.

Executive Director Cook stated that a draft of the LAR will be presented at the May 24, 2016 Commission meeting. She added that the draft will be provided to the Commissioners well in advance of the Commission Meeting to allow time for them to provide input and make sure that the LAR clearly aligns with the agency's mission.

Executive Director Cook stated that the Operating Budget and LAR packets must be complete by July 5, 2016. She added that this will be a tight timeline as the agency will not receive the General Revenue (GR) number from the Legislative Budget Board (LBB) until the middle of July. Executive Director Cook stated that depending on the GR number, the agency may have to adjust our LAR proposal. She added that the final Operating Budget and the LAR will come before the Commissioners at the July 26, 2016 Commission Meeting for approval.

Presiding Officer Cuevas inquired if the agency will be planning ahead and preparing for possible budget cuts.

Executive Director Cook responded that at a recent outside meeting, the Governor's Financial Budget Director shared that the Strategic Plan instructions should be available by the first part of next week. She said that he informed them that the

instructions will be about ten pages long and it would be recommended that the strategic plan be limited to no more than thirty pages. Executive Director Cook stated that he suggested that agencies should build their reduction schedules into the budget planning process. She added that he did not give a definitive answer if this will be an actual part of the LAR submissions. Executive Director Cook stated that the Governor's Office is working very closely with the LBB on the agency budgets. She added that they are taking an in-depth look at agency performance measurements. Executive Director Cook commented that she is excited to hear how closely these government agencies are working together to bring more efficiencies to the process. She added that she is looking forward to working through the new guidelines. Executive Director Cook announced that on March 30, 2016, there will be a Senate Finance Committee Hearing that will discuss the budget structures and how this impacts all state agencies. She stated that the agency needs to be engaged in those conversations.

Executive Director Cook advised that the final report must be completed and submitted to the LBB by July 29, 2016. She stated that the deadline for the Operating Budget and LAR submission is August 5, 2016.

Executive Director Cook stated that the agency will be looking at alternatives to approach budget cuts other than FTE reductions. She added that this is only an exercise at this time.

Executive Director Cook continued her briefing with an overview of agency trends. She stated that in terms of gallons of alcoholic beverages sold, wholesale sales have generally trended upward over the past decade, largely as a function of population growth. She added that while there was a slight dip in the quantity sold in FY 2015, the volume of wholesale sales in FY 2016 has trended upward and appears to be returning to a long term trend.

Executive Director Cook stated that there are several interesting aspects about the gains seen so far in FY 2016. She added that overall, beverage categories have experienced gains. Executive Director Cook stated that after a three year decline, beer has significantly increased to an almost 8% increase during the first six months of FY 2016. She added that distilled spirits posted a more modest gain of 2.4% during the first half of FY 2016, actually set a new monthly sales record during that period. Executive Director Cook stated that December distilled spirits sales in the January 2016 tax reports surpassed the previous record from December of 2011 by a net difference of sixty-five thousand gallons.

Commissioner Weinberg inquired if the beer increase has anything to do with craft beer.

Executive Director Cook responded that the agency is receiving fewer label approval requests for craft beers than malt beers. She added that craft beer could possibly have some impact on the growth in beer sales.

Presiding Officer Cuevas quizzed Executive Director Cook what she considered a craft beer.

Executive Director Cook responded that she doesn't want to speak for that segment of the industry, but generally, a craft beer has a higher alcohol content.

Executive Director Cook next briefed on the gross excise tax revenue by beverage class. She provided a breakdown by tax rate for each beverage class. Executive Director Cook stated that revenue appears to be lower for some of the classes even though the same classes are up significantly percentage wise. She added that the different tax rates drive these numbers. Executive Director Cook stated that gross excise tax collections for FY 2016 are up almost six million dollars from the same period in FY 2015. She added that if this trend continues, the revenue numbers could be ten percent higher than the estimated numbers that were initially submitted to the LBB.

Executive Director Cook's next chart showed the increase in wholesale sales volume and increase in gross excise tax revenue. She stated that the revenue gains closely mirror the sales volume. Executive Director Cook explained how the different tax rates impact the revenue for specific beverage classes.

Executive Director Cook next spoke on label application trends. She stated that the volume of label applications processed by agency personnel has trended upwards since FY 2009. She added that this trend has continued into the current fiscal year, with only malt beverage label applications experiencing a slight decline relative to the same period of the prior fiscal year. Executive Director Cook stated that the agency will continue to watch this trend. She added that the most significant difference between the first and second half of the two fiscal years is not the increase in volume, but changes in the method of submission.

Executive Director Cook stated that online label application submission became fully available in June 2015. She added that during the first half of FY 2016, more than twenty-seven percent of all label applications received were submitted online rather than the traditional paper format. Executive Director Cook stated that this development is of great importance to both the agency and to its license and permit holders. She added in addition to being more convenient for applicants, use of online label applications reduce agency front end processing costs and prevent many of the more common errors that often cause lengthy processing delays. Executive Director Cook stated that as the use of on-line label applications grows, the agency expects to gain efficiency and to reduce overall processing time, speeding the introduction of new products to the Texas marketplace.

Presiding Officer Cuevas inquired how the agency can go about requiring all label applications to be submitted online in the next three years.

Executive Director Cook responded that the agency has internally discussed having a cut-over date for online submissions. She requested Tax and Label Approval Division Director Thomas Graham to come forward and address Presiding Officer Cuevas' question.

Director Graham stated that the use of incentives has been discussed to encourage applicants to transition to the online system over the next two years. He added that a review of the associated rules will also add some flexibility. Director Graham stated that a large percentage of applicants use a dedicated agent to submit label approval applications. He added that currently, only applicants that are listed on the permit are allowed to submit online applications. Director Graham stated that many of the Texas brewers are using the online system and it has helped relieve some of the bottlenecks in those areas.

Presiding Officer Cuevas commented that having all label approval applications online would be a great goal. He stated that he doesn't believe the agency would even have to offer pricing discounts. He added that everyone is moving towards this type of technology.

Director Graham stated that a solution needs to be found. He added that the agency is pushing the benefits of online label approval applications out to the industry.

Commissioner Weinberg questioned why the online label approval application process must wait to be finalized until next year.

Director Graham responded that he will look at the rule review schedule to see if it would be possible to move the timeline up.

Commissioner Weinberg commented that the agency has been able to transition tax stamps to an online only system. He stated that the agency should also be able to find a method to transition the label approval applications to an online only system.

Director Graham stated that this is definitely the direction the agency wants to move towards. He added that all options are currently being considered. Director Graham stated that the agency is working to drive applicants to the online process with incentives.

Commissioner Weinberg commented that the process does not have to wait until next year. He added that the incentive would be that the agency is not going to offer a paper alternative any longer.

Presiding Officer Cuevas questioned Director Graham that one of the bottlenecks is the ownership and the person who represents the owner.

Director Graham responded to the affirmative. He stated that there are some changes being made to the system to address this issue.

Executive Director Cook stated that label approval times have dropped significantly. She added that it is a huge incentive to the industry to get their products into the market faster by using an online label approval application system.

Presiding Officer Cuevas commented that he thinks the craft beer industry is driven by a younger generation that will adapt to the new technology.

Executive Director Cook stated that she has met with Director Graham and Marketing Practices Supervisor Andrea Maceyra to challenge them to look through the application process and streamline it to make it more efficient.

Commissioner Weinberg commented that we have a good trend in excise tax increases. He added that he would like to see excise tax numbers seasonally adjusted if possible. Commissioner Weinberg suggested that the agency should make sure the Governor's Office and LBB are aware that the agency is accomplishing more with less.

Presiding Officer Cuevas questioned if there was a way to know what percentage of the excise tax increases belong to Texas permits or licenses and what is the breakdown of those permits and licenses by beverage class.

Executive Director Cook and Director Graham both stated that they would check into pulling the data to answer Presiding Officer Cuevas' question.

Executive Director Cook will provide the data breakdown on Texas permittees and licensees excise tax increases.

Executive Director Cook's report is supported by a PowerPoint presentation. (Attachment 3)

INFORMATION RESOURCES DIVISION BRIEFING

Information Resources Division (IRD) Director Jay Webster began the presentation with an overview of the IRD organization and a briefing on the current state of the IRD Division.

Director Webster stated that the IRD Division is now fully staffed with twenty-one FTEs. He added that the division has only had one position to fill since the IRD briefing last year. Director Webster stated that the one position had to be filled due to the retirement of a member of the operations team. He gave credit to the supervisors and team leads for retaining the staff and keeping them motivated.

Director Webster stated that IRD continues to have the most qualified staff it has had in years. He added that the most recent staff hires continue to bring in a higher skill level and a diverse knowledge of IT practices. Director Webster stated that the challenge now would be retaining this team.

Director Webster stated that IRD has greatly improved its maturity and focus in several areas:

- Project Management
- Process Improvement
- Systems Analysis
- Information Security
- ITIL (Service Delivery Standards)

Commissioner Weinberg stated that these projects are all current projects. He quizzed Director Webster if his briefing would be covering future projects as well.

Director Webster responded to the affirmative that he would be providing information on current and future projects.

Director Webster stated that as of February 2016 there were thirty active projects, sixty-five pending projects, and twenty-eight horizon projects. He added that twenty-five projects have been completed and closed in the past twelve months.

Director Webster continued his briefing with an overview of projects successfully completed in the past year.

Online Renewals: Four year effort to bring the renewal process for all license/permit types online.

Director Webster thanked Licensing Director Amy Harrison and Business Services Director Vanessa Mayo and their divisions for their assistance with the online renewal project.

Replicon: One and a half year project to transform monthly timesheets from an Excel spreadsheet format to a Cloud-based time/leave reporting format; eliminating a large percentage of data entry in the Business Services Division.

Online Ordering of Tax ID Stamps: Provides the agency an improved method for ordering, maintaining, and distributing inventory of Tax ID stamps to the industry.

Online Label Approval: Provides an efficient and simplistic way for the public to apply online to begin the label approval process.

Mobility Project: Deployment of Surface Pro 3 tablets to key executive staff members. A purchase order has been issued for eighty-five more Surface Pro tablets to be deployed in April. These Surface Pro 4 tablets will be going to auditors and other key executive staff members.

Commissioner Weinberg inquired if the agency was purchasing or leasing these tablets.

Director Webster responded that the agency was acquiring these tablets on a 3-year lease program. He added that the agency also leases its desktops, laptops and Toughbooks. Director Webster stated that this summer, the agency will purchase one hundred nineteen additional Surface Pro 4 tablets to replace the Toughbooks that

were originally purchased 5 to 6 years ago through a one-time purchase grant program.

Commissioner Weinberg stated that it is a good idea to lease equipment that will be out of date in three years.

Director Webster agreed with Commissioner Weinberg's observation. He stated that tablets are an emerging technology.

Neubus Holding Tank: Working with the Neubus vendor to provide the latest improvement in records imaging capabilities.

Director Webster continued his presentation by briefing on active projects.

CAPPS Financials Implementation: Major implementation of statewide financial system. Go live date set for September 1, 2016.

Director Webster stated the CAPPS project is being managed by Business Services Division Director Vanessa Mayo and her team. He added that most of the resource consumption needs are more in Director Mayo's area than on the technical side. Director Webster stated that this is due to the project being managed by the Comptroller's office. He added that IRD does not have any control over this project.

Commissioner Weinberg inquired if the go-live date was for all state agencies.

Director Webster responded to the negative. He stated that all of the go-live dates are being implemented in waves of approximately ten agencies at a time.

Website Modernization: Director Webster stated that the agency website is set to be overhauled in the next six months following the contract bidding process. He added that the TABC website was last redesigned in 2009. Director Webster stated that the focus of this redesign will be to strengthen search capabilities and to comply with HB 855, which states that all state agency websites must be compatible with wireless communication. He added that the TABC website is technically already in compliance, but will be updated to improve wireless communication performance.

PC Refresh/ End-User Computing Modernization: To occur in the coming year.

Network Upgrades / Quality of Service: Various network upgrades to circuits and hardware.

Mobile Broadband In-A-Box Implementation: Improving network telecommunications by using broadband cellular service instead of traditional dedicated circuits.

Director Webster stated that this service is faster and less expensive than traditional dedicated circuits. He added that it could be used in an emergency situation or on a full-time basis in an office environment.

Replace ChrisNET: Interim effort prior to implementing the next generation of case management solutions for the agency's agents, investigators, and auditors.

Upgrade servers: Windows 2003 to Windows 2012

Director Webster continued his presentation by briefing on TABC in the Cloud.

Director Webster stated that TABC is making great progress in either moving applications or finding services that provide application services in the Cloud. He added that by using Cloud-based services, the agency does not have to rely on the data center contract or have to build applications.

Director Webster stated that there are both benefits and disadvantages to the Cloud.

Benefits include:

- cost effective, no infrastructure to maintain
- no large up-front expense
- provides flexibility for storage and number of users
- automatic back-ups and data recovery
- applications are accessible from any location
- less dependency on software development and technical resources

Disadvantages include:

- subject to vendor schedules, outages, and maintenance
- often does not meet CJIS standards for law enforcement records
- more dependent on end-users and contract managers
(Less IT involvement)
- recurring costs are priced per-user/per-month

Director Webster stated that we have been able to take advantage of many applications and work performed by the agency. He added that two upcoming Cloud projects are the Microsoft Office 365 licenses and the CAPPs program.

Commissioner Weinberg questioned Director Webster if he is concerned about the security of Cloud use.

Director Webster responded that he is always concerned about security. He stated that there have been meetings with each of the vendors to discuss an application's security and performance details. Director Webster added that it can be very frustrating when a system, such as the time/leave reporting system goes down at a crucial point during the month.

Presiding Officer Cuevas commented that outages can also happen with the internal systems the agency currently has in place.

Director Webster stated that the email system is a perfect example of this. Historically, the agency's email system has had several significant outages. He added that from an IT standpoint, going to the Cloud-based Microsoft Office 365 has been one of the best decisions the agency has ever made. Director Webster stated that Microsoft Office 365 is one of the most secure and reliable systems available.

Presiding Officer Cuevas inquired as to how many Cloud storage sites there are.

Information Resources Division Assistant Director David Brandon responded that an application could be maintained through one site or multiple sites depending on the application. He stated that in the case of Microsoft Office 365, Microsoft is the only solution provider that has a Criminal Justice Information Services (CJIS) compliant Cloud offering. Assistant Director Brandon added that the agency's requirement is not a specific physical location, but that it is located in a government Cloud that meets the CJIS requirements.

Director Webster turned the remaining portion of the presentation over to Assistant Director Brandon to provide a briefing on future projects.

Assistant Director Brandon began his portion of the presentation with a briefing on IRD 2016 goals.

- IRD Imperatives
 - Protect the environment (security, outages, & data)
 - Provide Good Customer Service
 - Improve Agency Efficiency through Automation

- IRD Priorities
 - Break-Fix – Reactive Maintenance (Tickets, Outages)
 - Maintain – Preventive Maintenance (Tickets, Upgrades) Projects
 - Process Improvement - documentation and cross-training
 - Celebrate Successes

Assistant Director Brandon continued his presentation with an overview of the IRD Performance Metrics.

Assistant Director Brandon stated that the Information Resources Division provides one hundred and thirty distinct services to either people within the agency, public citizens, or members of the alcoholic beverage industry. He added that these services cross fifteen service categories that range from high volume print jobs, network stability, and maintenance on all systems.

	Dec 2015	Jan 2016	Feb 2016	Goal
Information Resources Services				
Service Categories	15	15	15	-----
Total Services	130	130	130	-----
Network				
Average Network Availability	99.76%	99.04%	97.38%	98.90%
Help Desk Tickets				
Tickets Resolved	631	716	809	-----
Average Open Tickets (Backlog)	213	234	280	150
Urgent Tickets Unassigned within 1 hour	0	0	0	0
Urgent Tickets Unresolved within 48 hours	0	0	0	0
Enterprise Software				
Number of Information Systems	28	28	28	-----
Number of Mission-Critical Information Systems	4	4	4	-----
Number of Software Failures	0	1	1	0
Number of Software Defects	0	0	0	0

Assistant Director Brandon noted that the small drop in Average Network Availability in February of 2016 was due to five new Ports of Entry nodes being put online that are not in use. He added that the two software failures, one in January and one in February of 2016, were for reasons beyond the agency's control.

	Dec 2015	Jan 2016	Feb 2016	Goal
Projects				
Number of Active Projects	22	24	30	-----
Number of Pending Projects	66	68	65	-----
Number of Horizon Projects	28	28	28	-----
Security				
Blocked Connections	394,186	693,544	733,148	-----
Blocked Spam	23,441	17,743	20,614	-----
Quarantined Spam	80,406	78,198	120,370	-----
Viruses	270	270	288	-----
Allowed E-mail (including outbound email)	193,098	227,080	267,424	-----
SPX Encrypted	71	75	121	-----
Blocked by Web Filter	23	10	8	-----
Blocked by SAV	2	0	0	-----
Blocked by IPS	7	1	4	-----

Assistant Director Brandon addressed Commissioner Weinberg's earlier question as to why the agency is unable to bring the label approval application process online this year. He stated that currently, there is not enough bandwidth to execute that project. He added that sixty-five projects would have to be pushed down one slot to bring the online label approval application initiative up one slot. Assistant Director Brandon stated that monthly Project Governance meetings are held to prioritize the agency's IT projects.

Commissioner Weinberg quizzed Assistant Director Brandon if the agency recently increased the bandwidth.

Director Webster responded to the affirmative.

Commissioner Weinberg remarked that he could tell the difference in the quality of the video feed during video conference meetings.

Director Webster thanked Commissioner Weinberg for his positive feedback. He added that he would be sure to let his network team know that the video quality has greatly improved.

Assistant Director Brandon stated that in addition to increasing the bandwidth, there are multiple ongoing initiatives to increase the quality of service for network components.

Assistant Director Brandon stated that security threats are on the increase. He added that even though security threats occur every day, systems are in place to protect the agency from these cyber threats.

Commissioner Steen questioned Assistant Director Brandon if these security attacks are directed specifically at the agency or are they random attacks.

Assistant Director Brandon responded that the attacks could be either of the two scenarios.

Commissioner Steen questioned Assistant Director Brandon if it is possible to determine which type of attack is occurring.

Assistant Director Brandon responded that it is not always possible to tell what type of attack is occurring. He added that sometimes the attacks originate from another country.

Commissioner Weinberg quizzed Assistant Director Brandon if there are regular meetings with other agencies to share security information.

Assistant Director Brandon responded that it is required that agencies report this information on a monthly basis to the Department of Information Resources (DIR). He added that DIR collects the information to develop a state wide security profile.

Director Webster stated that the agency has a chief information security officer, as designated by statute, who serves on a committee that meets regularly to share cyber security information.

Presiding Officer Cuevas inquired if the agency conducts tests to make sure employees are following computer security protocols.

Director Webster responded that employees are required, by statute, to complete a Security Awareness training course annually. He stated that employees are kept as informed as possible on the issue of cyber security. Director Webster added that the agency does not contract out for social engineering, but does contract out with DIR for

control penetration tests that simulate a hacker trying to access agency information. Director Webster stated that security threats are most often stopped before they reach a user's inbox.

Executive Director Cook stated that security will most likely be one of the agency's exceptional items in the LAR.

Director Webster stated that the agency cannot have enough people or money to support security. He added that due to the nature of the private information the agency handles, security is very important.

Assistant Director Brandon continued with a briefing on the TABC Help Desk. He stated that the number of Help Desk tickets is increasing. He added that IRD is unable to complete the tickets at the rate they are coming in. Assistant Director Brandon stated that in the short term, an outside contractor has been hired to help manage the workflow, but in the long-term there are very few solutions to this problem.

Commissioner Weinberg inquired if the TABC Help Desk is handled internally.

Assistant Director Brandon responded to the affirmative.

Commissioner Weinberg commented that many companies outsource their help desks. He quizzed Assistant Director Brandon as to what an average help desk ticket looks like.

Assistant Director Brandon responded that approximately eight hundred tickets per month. He stated that the tickets can range from the most common request to "reset my password" to an "entire network is down" at one of the office locations. Assistant Director Brandon added that some requests are quick and easy to fix, while other requests are more complex and can take months to complete.

Commissioner Weinberg quizzed Assistant Director Brandon how many people work at the help desk and if it is manned 24 hours a day.

Assistant Director Brandon responded that there are eight people assigned to the help desk. He added that someone is on call after hours with a thirty minute response time.

Commissioner Weinberg quizzed Assistant Director Brandon if the on call person ever has to come into the office.

Assistant Director Brandon responded that the on call person can usually resolve the issue without coming into the office. If it cannot be resolved, it will be handled in the office the next morning when the full staff is available to assist.

Assistant Director Brandon continued his presentation with an overview of IRD challenges.

Assistant Director Brandon stated that serving approximately six hundred-twenty employees, the industry, and the public presents an ever increasing demand on technology resources.

- Unlimited Demand for Technology – Limited Resources
- Ever-Increasing Cyber Security Threats – Reduction in Resources
- Increasing Pace of Changing Technology & Incompatibility Across Technology Platforms
- Increasing Requests for Public Information
- Broader Reach – From supporting TABC employees to transacting business around the world
- Shifting role of IRD from tech provider to tech broker
- Realization that the Private Sector can often provide better services at reasonable costs
 - Managed Data Center Services (since 2007)
 - Credit Card Processing (since 2014)
 - Managed Network Services (pending)
 - Managed Ports of Entry Services (pending)
 - Managed Print/Mail Services (conceptual)

Assistant Director Brandon stated that IRD is no longer providing all of the technology for the agency. He added that the agency is brokering the technology through the Data Center Services Program and Cloud providers. Assistant Director Brandon stated that IRD continues to make sure the end users receive the right services even if the services are not always provided by IRD. He added that it is becoming apparent the private sector can often provide services at a reasonable cost. Assistant Director Brandon stated that IRD has not pursued the out sourcing of the help desk. He added that it is a viable option if you do not count the dedication to the staff.

Assistant Director Brandon stated that the Managed Ports of Entry Services project is pending and would hire a contractor to provide all of the technology that surrounds the Ports of Entry program. He added that the agency would not be out sourcing the personnel, but just the hardware, software, and communications for that program. Assistant Director Brandon stated that the current technology is obsolete. He added that it is better to hire a vendor to provide the technology for the program than to upgrade the existing technology.

Commissioner Weinberg commented that he has been in both outsourced and internal help desk environments and he believes that people are more comfortable when the help desk is housed in the same building.

Assistant Director Brandon stated that if IRD had a problem providing the service, outsourcing might be considered. He added that currently there are a number of initiatives to reduce the workload. Assistant Director Brandon stated that the managed services programs are one of those initiatives. He added that the only three ways to

alleviate the problem are to hire more people, reduce the work load, or do a less effective job.

Commissioner Weinberg commented that he is not fond of two of those three choices. He added that he likes to keep projects two to five years ahead of the agency's needs.

Assistant Director Brandon stated that he and Director Webster do a good job of keeping three to five years ahead of where the agency wants to be.

Assistant Director Brandon ended his presentation with a briefing on some of the pending projects.

CAPPS Enterprise Resource Planning (Human Resources): The financial section of CAPPS will go live in September 2016 and the human resources section will go live next year.

Commissioner Weinberg questioned Assistant Director Brandon if the new CAPPS system would run parallel to the existing financial system for a period of time.

Assistant Director Brandon responded that both systems will be running parallel to an extent. He stated that they will both be operational. He stated that the CAPPS project would be in a testing environment. He added that the CAPPS project will automate many job processes that are currently done manually.

Security Program: The agency will again be requesting legislative funding for security during the next legislative session.

Case Management: Will improve the productivity of the field staff by managing and prioritizing the work load.

Assistant Director Brandon stated that the agency has a very high-performing productive team. He added that that he credits the success to being stable in production. Assistant Director Brandon stated that IRD does a very good job of system maintenance which, in turn, prevents issues from occurring.

Commissioner Weinberg advised Business Services Director Vanessa Mayo that after CAPPS is launched in September; he will be asking her in October how she likes the new system.

Director Mayo stated that she likes the system so far. She clarified an earlier statement made in the meeting by stating that her division will not be working in two systems. There is a hard cutoff date for CAPPS, there will not be any parallel processes.

Commissioner Weinberg commented that the agency would not have increased its productivity without the automation that has been implemented.

Presiding Officer Cuevas inquired if the only way to fund these projects is through the Legislative Appropriations Request (LAR).

Executive Director Cook responded to the affirmative. She stated that some of the projects will reach a capital threshold.

Presiding Officer Cuevas inquired if the agency generally lapse unused monies to the General Revenue Fund at the end of each fiscal year.

Executive Director Cook responded that last year the agency did return funds. She added that the amount returned becomes smaller each year. Executive Director Cook stated that she anticipates the amount to be even less this year due to the right-sizing the agency did during the biennium. She added that the agency is now whole from a budget perspective and is managing its budget.

Presiding Officer Cuevas commented that that is a good position to be in, but there must be something else to bring these projects all together. He added that the cost is expensive.

Executive Director Cook stated that it is expensive and security is important to continue doing the job and see growth. She added that even with automation to assist the front end processes with redundancy, we will still reach a point where we must work certain items outside of the automated system. Executive Director Cook stated that the agency will need to look at our automated systems to help guide certain decision processes. She added that the only thing being worked outside of the automated system should be discrepancies. Executive Director Cook stated that the current platform for licensing applications is not up to the latest version. She added that the agency will also need to evaluate the automation to determine if it is still the most appropriate platform, or if it is time to start automating these complicated business decisions.

Presiding Officer Cuevas commented that he agrees with Assistant Director Brandon that when there are legacy programs that are ten years old, you can't keep trying to rely on them. He added that the agency has to change the way we think and start moving forward.

Executive Director Cook commented that two sessions from now, the agency will have its Sunset Commission Review. She stated that a comprehensive report will need to be compiled at that time that defines where the licensing platform needs it to be going forward. She added that it will be perfect timing for that report.

Director Webster's report is supported by a PowerPoint presentation. (Attachment 4)

LICENSING DIVISION BRIEFING

Licensing Director Amy Harrison began her presentation by stating that although she is presenting the Licensing Division Briefing, all of the items she will be discussing are part of a collaborative effort across many divisions of the agency.

Presiding Officer Cuevas stated that he appreciates Director Harrison spreading good will to the other divisions in the agency.

Director Harrison briefed the Commissioners on the innovations currently being implemented in the Licensing Division. She described each innovation and how it is impacting not only the Licensing Division, but also the permittees/licensees and licensing service businesses.

V-Box: A virtual mailbox allowing electronic document transmission and document tracking. The primary focus of the virtual mailbox has been bond agencies.

Barcodes: Placement of barcodes on permits and licenses accelerates the ability to scan images into the system. This gives agents and auditors faster access to data while in the field.

Interviews/Responsibility Courses On-Line: In the past, applicants were required to come into a TABC office for an interview as part of the application process. The primary function of these interviews was to discuss the laws and responsibilities that come with an alcoholic beverage license or permit. Now applicants can take a responsibility course tailored to their license or permit type online as part of their application process. Currently, there are responsibility courses set up for nine license/permit types. More courses will be brought on-line as they become available.

Work from Home-Telecommuting: Very successful pilot program. Currently there are eight licensing employees in the work from home program.

Revision/Update of all L/P application forms: All of the forty plus licensing forms have been reviewed, updated, and converted into a fillable PDF format. The content was re-evaluated to ensure that the forms were clear and easy to understand. There has been good feedback from the licensing services.

Divisional In-Service: Initiative by the Executive Division of the agency. The focus has been concentrated on issues specific to the Licensing Division.

On-line Renewals: All permit types are now online for renewal applications.

Commissioner Weinberg quizzed Director Harrison what percentage of renewals are being processed online.

Director Harrison responded that 33.6% of renewals are currently being processed online.

Commissioner Weinberg encouraged Director Harrison to increase those online renewal numbers.

Director Harrison responded that contact is being made with members of industry to utilize the online renewal process. She added that a feature of the online process allows licensing services the ability to renew an application on behalf of their client.

Commissioner Weinberg commented that there would have to be a cutoff date for paper renewals.

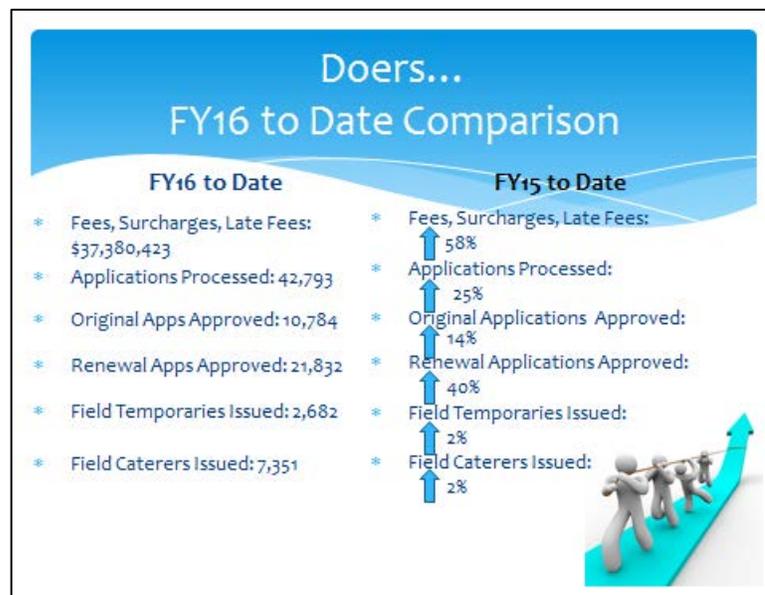
Presiding Officer Cuevas agreed that there should be a cutoff date for paper renewals. He added that permittees and licensees will adjust their business practices.

Online originals: The Agent applications are the first original applications to be available online. These applications have been live for one week. Feedback has been favorable.

Commissioner Weinberg quizzed Director Harrison if the online original applications will speed up the average time to process an application.

Director Harrison responded to the affirmative. She added that she believes the automatic submission reduces the number of mistakes and incomplete submissions made by applicants.

Director Harrison continued her presentation with a comparison of statistics.



Director Harrison stated that over 500,000 images have been created, 15,109 phone calls at Headquarters alone, and 63,920 new entities have been entered into the database in FY15.

Director Harrison next briefed the Commissioners on new business trends in the alcoholic beverage industry.

- Coffee Shops
- Bookstores
- Discount Dry Good Stores
- Funeral Homes
- Senior Citizen Facilities
- Fast Food Chains
- Family Entertainment Venues

Director Harrison stated that going forward the Licensing Division will be bar coding renewal applications as well as Field Operations forms. She added that more original applications will become available for online submission beginning with retail and miscellaneous applications. Director Harrison stated that a paperless License and Permit Beacon could also be in the future. She added that the beacon would send out a signal that provides licensing information not only to agents and auditors, but could also provide delinquent list and license status information to wholesalers and distributors.

Presiding Officer Cuevas quizzed Director Harrison if the applicant is able to download their actual license.

Director Harrison responded to the negative. She stated that TABC will still produce the license or permit. Director Harrison added that TABC works closely with other law enforcement entities to inform them how to identify counterfeit licenses.

Presiding Officer Cuevas recommended that the phrase, "Renew Online" and the renewal date be added to the license or permit.

Director Harrison acknowledged that it is a great idea.

Director Harrison introduced the licensing managers that were present to stand and be recognized.

Presiding Officer Cuevas stated that he appreciates Director Harrison and her team as well as Information Resources Davison Director, Jay Webster and Assistant Director David Brandon.

Commissioner Weinberg also stated his appreciation.

Commissioner Steen questioned Assistant Director Brandon if TABC shares information on new practices or technology with other regulatory agencies.

Assistant Director Brandon responded that TABC does meet with peer agencies both inside and outside of the state.

Commissioner Steen questioned Assistant Director Brandon if it would be possible to band together with other peer agencies to decrease prices when making technology related purchases.

Assistant Director Brandon responded that the Department of Information Resources negotiates commodity contracts on the behalf of the State of Texas. He added that this is where the agency currently purchases technology.

Director Harrison's report is supported by a PowerPoint presentation. (Attachment 5)

Presiding Officer Cuevas called upon Assistant General Counsel Martin Wilson to present the next agenda items.

Agenda items grouped together for discussion

Presiding Officer Cuevas read agenda items 12 & 13 for the Commissioners consideration

ADOPT AMENDMENTS TO RULE §33.9, FEES FOR ON-LINE TRANSACTIONS

Assistant General Counsel Wilson stated that as part of the restructuring of the fee program, the fee is decreasing for credit card and electronic check transactions. He added that no comments were received at the public hearing.

ADOPT AMENDMENTS TO RULE §41.52, PRIVATE CLUBS- IN GENERAL

Assistant General Counsel Wilson stated that Private Clubs are no longer required to offer complete meals and they can contract with private vendors for the food service that they still must provide. He added that no comments were received at the public hearing.

Presiding Officer Cuevas called for a motion. Commissioner Weinberg moved to Approve Items 12 and 13 as recommended by staff. Commissioner Steen seconded the motion and the motion passes.

Agenda items grouped together for discussion

Presiding Officer Cuevas read agenda items 14 & 15 for the Commissioners consideration.

ADOPT REPEAL OF CURRENT RULE §41.54, DESTRUCTIONS

ADOPT NEW RULE §41.54, DESTRUCTIONS

Assistant General Counsel Wilson stated that this rule is being repealed due to out-dated language. He added that the rule does not change the key concept of what is required to get tax credits for destroying alcoholic beverages. Assistant General Counsel Wilson stated that there were no comments received at the public hearing.

Presiding Officer Cuevas called for a motion. Commissioner Weinberg moved to Approve Items 14 and 15 as recommended by staff. Commissioner Steen seconded the motion and the motion passes.

Commissioner Weinberg stated the he, General Counsel Helm and Assistant General Counsel Wilson held a video-conference to discuss all of the rules on today's agenda.

Agenda items grouped together for discussion

Presiding Officer Cuevas read agenda items 16 & 17 for the Commissioners consideration

Assistant General Counsel Wilson advised that all of the remaining rules on the agenda are proposals to publish in the *Texas Register*. He added that the publication of these two rules, agenda items 16 and 17, gives notification that the agency is reviewing the rule, but are not proposing any amendments to the rule.

APPROVE PUBLICATION OF NOTICE OF PROPOSED REVIEW OF RULE §41.20, TIMELY FILING OF REPORTS

Assistant General Counsel Wilson stated that Rule §41.20 gives the Commission discretion to excuse the late filing of tax reports. He added that this rule was created to recognize that there can be legitimate excuses for the late filing of reports. Assistant General Counsel Wilson stated that an example of a legitimate excuse would be a natural disaster.

APPROVE PUBLICATION OF NOTICE OF PROPOSED REVIEW OF RULE §45.101, REBATES, COUPONS AND PREMIUM STAMPS

Assistant General Counsel Wilson stated that after much discussion it has been decided that it is not appropriate to change the coupon rule. He added that Loyalty Programs were also part of the discussion and the agency's recommendation is to not to go forward with a rule on Loyalty Programs.

Commissioner Weinberg asked Presiding Officer Cuevas if there was any one attending the meeting who wanted to comment on Rule §45.101.

Presiding Officer Cuevas responded to the negative.

Assistant General Counsel Wilson stated that there were no comments at the stakeholders meeting.

Presiding Officer Cuevas called for a motion. Commissioner Weinberg moved to Approve Items 16 and 17 as recommended by staff. Commissioner Steen seconded the motion and the motion passes.

Agenda items grouped together for discussion

Presiding Officer Cuevas read agenda items 18 & 19 for the Commissioners consideration.

APPROVE PUBLICATION OF PROPOSED REPEAL OF RULE §41.29, BONDED WAREHOUSE BREAKAGE

APPROVE PUBLICATION OF PROPOSED AMENDMENTS TO RULE §41.39. WAREHOUSE REPORT

Assistant General Counsel Wilson stated that Rule §41.29, Bonded Warehouse Breakage, would be repealed and the requirements will be rolled into Rule §41.39, Warehouse Report. He added that the reporting requirements would change to the monthly schedule, eliminating the 24 hour filing notification requirement. Assistant General Counsel Wilson stated that this change would conform the rule to the agency's current practice. He added that permit holders would also be required to affirm on each monthly report that they are compliant with the Alcoholic Beverage Code provision which requires warehouses to have fifty percent of their gross revenue from something other than the storage of liquor. Assistant General Counsel Wilson stated that there were no comments received at the stakeholders meeting.

Presiding Officer Cuevas called for a motion. Commissioner Weinberg moved to Approve Items 18 and 19 as recommended by staff. Commissioner Steen seconded the motion and the motion passes.

Agenda items grouped together for discussion

Presiding Officer Cuevas read agenda items 20 & 21 for the Commissioners consideration

APPROVE PUBLICATION OF PROPOSED REPEAL OF RULE §41.37, INDUSTRIAL ALCOHOL REPORT

APPROVE PUBLICATION OF PROPOSED AMENDMENTS TO RULE §41.21, INDUSTRIAL PERMITS

Assistant General Counsel Wilson stated that Rule §41.37, Industrial Alcohol Report, would be repealed and the requirements will be rolled into Rule §41.21, Industrial Permits. He added that an addition to this rule would require holders of an Industrial Permit or Local Industrial Alcohol Manufacturer's Permit to file monthly reports.

Presiding Officer Cuevas called for a motion. Commissioner Weinberg moved to Approve Items 20 and 21 as recommended by staff. Commissioner Steen seconded the motion and the motion passes.

Agenda items grouped together for discussion

Presiding Officer Cuevas read agenda items 22-28 for the Commissioners consideration

Assistant General Counsel Wilson stated that these rules were all subject to the same Stakeholders meeting and there were no comments received on agenda items 22-28.

APPROVE PUBLICATION OF PROPOSED AMENDMENTS TO RULE §35.5, PRIVATE CARRIER'S PERMIT SAFETY PROGRAM

Assistant General Counsel Wilson stated that currently Rule §35.5 contains specific insurance requirements for private carriers. He added that these requirements were originally added to eliminate the industry from being regulated by both the Department of Transportation and the Alcoholic Beverage Commission. The Legislature has since provided an exemption for private carriers and the agency is no longer required to match those requirements. Assistant General Counsel Wilson stated that it is the agency recommendation to eliminate the specific insurance requirements and propose that for public safety, the private carrier permit holders maintain a certain amount of insurance.

APPROVE PUBLICATION OF PROPOSED AMENDMENTS TO RULE §41.25, RECORDS TO BE KEPT SEPARATE

Assistant General Counsel Wilson stated that Rule §41.25 addresses multiple topics, including rules to be kept separate, records retention and invoicing requirements. A title change is recommended to better identify the content of the rule. He added that currently this rule provides for a two year records retention schedule. Assistant General Counsel Wilson stated that the rule would be amended to state that the retention schedule would be two years unless opposed by another rule or a provision of the code.

APPROVE PUBLICATION OF PROPOSED AMENDMENTS TO RULE §41.27, TAX CREDIT- WINE PROCESSING

Assistant General Counsel Wilson stated the wine processing does not need to have separate procedures to claim tax credits. He added that the proposed amendments would eliminate those provisions from the current rule and carry the remaining provisions forward.

APPROVE PUBLICATION OF PROPOSED AMENDMENTS TO RULE §41.31, TAX

Assistant General Counsel Wilson stated that changes to this rule would reflect that excise taxes are due on the first sale of alcoholic beverages as defined in the Alcoholic Beverage Code. He added that currently, the rule is limited to certain industry members and the amendment would reflect taxes applicable to all industry members.

APPROVE PUBLICATION OF PROPOSED AMENDMENTS TO RULE §41.38, CARRIER REPORT

Assistant General Counsel Wilson stated that Rule §41.38 applies to motor carriers regulated by the Department of Motor Vehicles and the U.S. Department of Transportation. He added that the proposed amendments to this rule are minor technical language changes.

APPROVE PUBLICATION OF PROPOSED AMENDMENTS TO RULE §41.43, AUTHORIZATION

Assistant General Counsel Wilson stated that currently this rule requires reports filed with the commission to be notarized. He added that the currently the agency is not requiring reports to be notarized. Assistant General Counsel Wilson stated that the amendments to Rule §41.43 would conform the rule to current practice. He added that requiring notarization would impose a new regulatory requirement on the industry that is unnecessary. Assistant General Counsel Wilson stated that amendments to this rule would also correct the reference “section” to “subchapter”.

APPROVE PUBLICATION OF PROPOSED AMENDMENTS TO RULE §41.44, COPY

Assistant General Counsel Wilson stated that Rule §41.44, Copy is intended to require that reports filed with the commission by retained by the permittee or licensee for two years. He added that this rule also incorrectly refers to “section” instead of “subchapter”. He added that amendments to this rule would correct that reference.

Assistant General Counsel Wilson stated that agenda items 22-28 are being proposed to publish in the *Texas Register* for a 30-day comment period.

Commissioner Weinberg commended the TABC legal staff for working to impose less regulation on industry when possible.

Presiding Officer Cuevas called for a motion. Commissioner Weinberg moved to approve Items 22 through 28 as recommended by staff. Commissioner Steen seconded the motion and the motion passes.

INTERNAL AUDIT OF THE FIELD OPERATIONS AUDIT ADMINISTRATION

Presiding Officer Cuevas called upon Internal Auditor Monday Rufus, CPA to present the next agenda item, Internal Audit of the Field Operations Audit Administration.

Mr. Monday Rufus introduced his associate Mr. Robert Gonzales, CPA and began the presentation.

Mr. Rufus stated an internal audit was conducted of the Field Operations Audit Administration at the Texas Alcoholic Beverage Commission as of January 4, 2016.

Mr. Rufus summarized the content of the audit and provided the audit findings.

Finding #1: The Field Training Manual Procedures Are Not Being Complied With In The Training of Audit Unit Probationary Auditors

Recommendations: The Audit Unit’s Field Training Program Manual should be updated to incorporate the management changes made in the Audit & Investigation Division which also affect the chain of command regarding the Audit Unit’s-*Field*

Training Auditor (FTA) Documentation Reporting Procedures. One of the recent management changes is the addition of the Audit Unit Director position.

Region Office Audit Supervisors should ensure that Field Training Auditors (FTAs) prepare the required evaluation forms for the Probationary Auditors after each of the 5 training phases.

Region Office Audit Supervisors should set up Probationary Auditor folders on the TABC intranet and monitor to ensure that each Probationary Auditor's folder is kept current during each of the five training program phases.

The Probationary Auditor training folder should be sent to the Training Division at the completion of the Probationary Auditor's Field Program.

Management's Response: TABC concurs with the audit findings.

Mr. Rufus next briefed the Commissioners on an additional item that came to their attention during the audit.

Matter for Further Consideration: Disposition of Confiscated/Seized Property Cases Stored In Evidence Room Safes Not Being Timely Tracked

Audit Results: Region IV (Austin)

Mr. Rufus stated that at the time of the internal audit there were 300 evidence items in the Evidence Storage Room safe dating from fiscal years 2004-2015. Seventy-two items (24%) of the evidence items were from fiscal year 2004 and had been assigned to 17 Certified Peace Officers (CPOs) during that period; some of who may not be currently employed at TABC.

Mr. Rufus added that according to the fiscal year 2015 *Chapter 59 Asset Forfeiture Report by Law Enforcement Agency* submitted by TABC to the Office of the Attorney General among the stored evidence included in the safe were \$4335.12 (cash).

Audit Results: Region V (San Antonio)

Mr. Rufus stated that at the time of the internal audit there were 169 evidence items in the Evidence Storage Room safe dating from fiscal years 2004-2014. Thirty-eight (22%) of the 169 seized serial numbers were assigned to envelopes containing a total of \$10,657.17 in cash dating back to fiscal year 2004.

Mr. Rufus stated that on November 8, 2013, TABC received a court order to take possession and destroy 650 confiscated/seized items. As of this internal audit, eighteen of the seized serial numbers listed on that court order have yet to be destroyed. He added that the confiscated evidence cases are not being tracked on a timely basis as required.

Recommendations:

Confiscated/seized evidence in the two Regional Office locations consisted mainly of narcotics, currency, and some weapons. Management should:

- a. Determine if the evidence cases starting from fiscal year 2004 through fiscal year 2015 are currently assigned to Certified Peace Officers
- b. Determine the current status for confiscated/seized cases stored in the Evidence Storage Room safes.
- c. Consider filing court motions for destruction of confiscated/seized evidence items stored in Evidence Storage Room safes.
- d. Determine if there are Memorandums of Agreement with the current, local District Attorneys regarding the sharing of the seized evidence case funds or if the funds can be forfeited to the seizing agency.

Commissioner Weinberg stated that he had met with the Quality Assurance Committee by web conference and he had three further suggestions regarding evidence.

Commissioner Weinberg suggested that there should be a policy outlining the handling of cash evidence. He added that evidence should be assigned to a job title, not to an individual. Commissioner Weinberg's last suggestion would be for the Information Resources Division (IRD) to bar code all items taken into the Evidence Room.

Chairman Cuevas acknowledged that the agency concurs with these findings, but would like to be briefed on management's response to rectify the situation.

Commissioner Weinberg requested Assistant Chief of Audit and Investigations, Dexter Jones, to come forward and brief the commissioners on the management response to the audit findings.

Assistant Chief Jones stated that he does concur with the audit findings. He added that the Audit Training Program has been successful, but there are some issues that can be enhanced. Assistant Chief Jones stated that he and Audit Director Gene Bowman will work together to correct the deficiencies.

Presiding Officer Cuevas inquired what some of the deficiencies are.

Assistant Chief Jones responded that during the Audit Training Program, the documentation and filing of reports was not consistent. He added that the reports were not being transmitted to headquarters as required.

Presiding Officer Cuevas quizzed Assistant Chief Jones when the evidence that dates back to 2004 would be destroyed.

Assistant Chief Jones responded that the Audit Division needs to work more closely with the Enforcement Division on the dispositions. He stated that currently a quarterly report is sent to the major in each region to be assigned to an individual to conduct the

disposition. He added that this individual is responsible for going to court to get an act of disposition and to make sure it is carried out properly.

Presiding Officer Cuevas quizzed Mr. Gonzales if there was any evidence that was unaccounted for.

Mr. Gonzales stated that all of the gun, narcotics and cash evidence in the safes was accounted for during the internal audit. Mr. Gonzales stated that reason this was not a finding in the audit was that the majority of the evidence is under the control of the courts.

Mr. Gonzales stated that the reason they are making this recommendation is for the protection of the current employees performing these functions.

Assistant Chief Jones stated that currently the Audit Division is the custodian for the evidence rooms. He added that they will take under consideration Commissioner Weinberg's suggestions.

Presiding Officer Cuevas called for a motion. Commissioner Weinberg moved to move to approve the Texas Alcoholic Beverage Commission's Internal Audit of the Field Operations Audit Administration as presented by the Internal Auditor, Mr. Monday Rufus. Commissioner Steen seconded the motion and the motion passes.

*Mr. Monday Rufus' report is supported by a PowerPoint presentation.
(Attachment 6)*

EXECUTIVE SESSION TO CONSULT WITH LEGAL COUNSEL REGARDING PENDING AND ANTICIPATED LITIGATION AGAINST THE AGENCY AND TO DELIBERATE ON THE APPOINTMENT, EMPLOYMENT, EVALUATION, DUTIES OF THE POSITIONS OF EXECUTIVE DIRECTOR AND GENERAL COUNSEL (Govt. Code §551.071, §551.074 and Texas Alcoholic Beverage Code §5.11)

Presiding Officer Cuevas announced the regular open session of the Texas Alcoholic Beverage Commission will be recessed at this time, 1:00 p.m. March 22, 2016 and an executive session will be held to consult with Legal Counsel regarding pending and anticipated litigation against the Agency and to deliberate and appointment, employment, evaluation, duties of the position of Executive Director and General Counsel (Govt. Code §551.071, §551.074 and Texas Alcoholic Beverage Code §5.11)

The Texas Alcoholic Beverage Commission has concluded its Executive session and is now in open regular session. The date is March 22, 2016 and the time is 1:50 p.m. No final action, decision or vote was made in Executive session.

ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

Presiding Officer Cuevas stated that there is no action needed on items discussed in Executive Session.

PUBLIC COMMENTS

Presiding Officer Cuevas opened the floor for additional comments before the Commission. No one came forward to address the Commission.

NEXT MEETING DATES

Presiding Officer Cuevas announced the next meeting date is scheduled for Tuesday, May 24, 2016.

ADJOURNMENT

Presiding Officer Cuevas called for a motion to adjourn. Commissioner Weinberg made a motion. Commissioner Steen seconded. The motion was made and seconded. The motion passes. Presiding Officer Cuevas announced that the meeting was adjourned at 1:51 p.m.

Attachment 1

**Recognition of Recipients for the 2015
José Cuevas, Jr. Gold Star Award**

*For Excellence In
Public Service*



The José Cuevas Jr.
Gold Star Award

Our employees are the driving force of this agency. They are smart, resourceful and creative. The Gold Star Award - Employee of the Year recognizes exemplary work performance and service – above and beyond the normal high expectations we have for our employees. A Gold Star Award nominee is a role model, always professional and is constantly seeking and applying new knowledge while upholding the agency’s Mission, Vision, Philosophy and Guiding Principles.



**2015 Civilian Employee of the Year
Guadalupe Rueda**

Guadalupe Rueda started her career with TABC in January 2013 as a Taxpayer Compliance Officer assigned to Laredo Ports of Entry. Guadalupe is a very energetic, self-motivated and hardworking employee. She ensures all travelers with alcohol are paying the required taxes. During the 2014 fiscal year, Guadalupe was ranked 1st as the top revenue collector in Laredo Ports of Entry. She was also ranked in the top five for the 2015 fiscal year.

The José Cuevas Jr. Gold Star Award

Guadalupe is one of the founding members of four nonprofit organizations aimed to provide assistance low income families and the less fortunate. The organizations are Laredo Soup Project, Nuevo Laredo Soup Proyecto, Ayudar Por Amor and Casa del Emigrante Nazareth. Laredo Soup Project and Nuevo Laredo Soup Proyecto raise funds to provide children with cerebral palsy adequate wheel chairs, therapy sessions, CT scans and necessary medication. Ayudar Por Amor is an organization that provided, as of today, 72 children with clothes and school supplies in Mexico. Casa del Emigrante Nazareth is located in Nuevo Laredo, Mexico and is dedicated to providing temporary housing, clothes and monetary funds for aliens deported from the United States to assist them in returning to their home state or country.

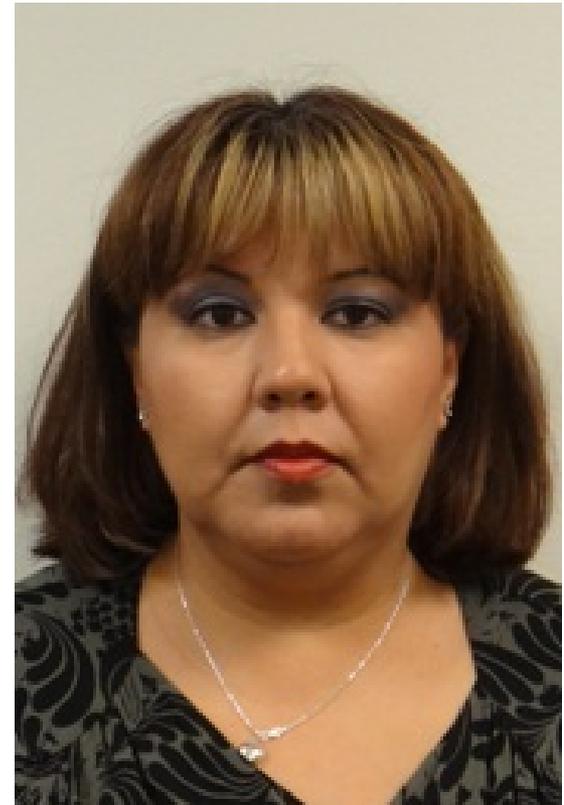
The José Cuevas Sr. Gold Star Award

Guadalupe is also a member of Corredores Con Causa de los Dos Laredos (CC2L), a group of sports enthusiasts of over 300 runners who run for charitable causes and donate pledges for mile donations. Guadalupe also helps students obtain scholarships to attend college. Guadalupe has received special recognitions for her efforts from United States Consul General in Nuevo Laredo, Philip Liderman and Nuevo Laredo, Tamaulipas, City Mayor Carlos Cantu Rosas.

Guadalupe is married to her husband of 12 years, Jesus Humberto Cabera Sapien. She has four daughters, Mariel, Marisol, Marla and Mariann.

*The José Cuevas Sr.
Gold Star Award*

**Congratulations
Guadalupe Rueda**



*The José Cuevas Sr.
Gold Star Award*



**2015 CPO Employee of the Year
Joe Franco**

Prior to Joe Franco's employment with TABC, Joe received his Peace Officers' License from San Antonio Law Enforcement Training Center. He then became a Patrol Officer for the City of Lockhart. By the end of 2004, Joe was hired by Hays County Sheriff's Office as a Patrol Deputy. Joe started his career with TABC in October 2005 as an Agent assigned to the McAllen Office. During Joe's employment with TABC, he has also worked in San Antonio, Austin and San Marcos, where is currently stationed at today. He is a Field Training Officer and a Physical Fitness Coordinator for the Austin District.

The José Cuevas Jr. Gold Star Award



Joe is currently the President of the Texas Alcoholic Beverage Commission Officers Association (TABCOA). For the last two legislative sessions, he has represented TABCOA at the Capitol. During Joe's free time, he volunteers at Meals on Wheels in Lockhart and a local driver's education school to teach alcohol awareness to students.

Joe has been married to his wife of twenty years, Deanne Franco. Together, they have four children, JD (19), Gabriel (16), Isabella (13) and James (11). Joe enjoys spending time with his kids as they all are involved in sports and extracurricular activities outside of school. When he is not at practices or games with his kids, Joe enjoys playing golf and fishing with his family and friends.

*The José Cuevas Jr.
Gold Star Award*

**Congratulations
CPO Joe Franco**



Attachment 2

**Recognition of Recipient for the 2015 Sherry Cook
Leadership Award**



The Sherry Cook Leadership Award

The Texas Alcoholic Beverage Commission (TABAC) is pleased to announce The Sherry Cook Leadership Award program to recognize a management level employee who exemplifies outstanding leadership and provides exemplary service. The award's purpose is to further the advancement of TABAC's Mission and Vision by recognizing those who establish new standards of excellence.



The Sherry Cook Leadership Award

Lieutenant Marvin Montero, Jr.

Lieutenant Marvin Montero, Jr. started his career with TABC in July 1994 as an Agent Trainee in the Dallas Enforcement Office. He was promoted to Lieutenant in July 2013 and assumed the duties as the Special Response Team (SRT) leader. During 2015, Marvin has led the SRT in trips to the border to act as force multipliers to United States Customs. The trips were highly successful and resulted in the seizure of illegal property and the collection of alcoholic beverage taxes. He served as a great liaison between TABC and US Customs that US Customs invited Marvin and SRT back for additional assistance following the initial trip. Marvin also invited vigorous amount of time in researching and developing a Continuity of Operations Plan when TABC did not have the correct COOP plan required by State Office of Risk Management (SORM).

Prior to Marvin's employment with TABC, Marvin was a US Army Non-Commissioned Officer and Commissioned Officer before retiring as a Chief Warrant Officer/Special Agent with the US Army Criminal Investigations Division. He served for a total of 25 years (active and reserve). During his tenure, he served as a Cavalry Scout, Cavalry Platoon leader, Executive Office and Detachment Commander. Marvin was assigned to the Secretary of Defense's Personal Protection Detail before being selected as the Personal Security Advisor to the Chairman of the Joint Chiefs of Staff.

Marvin is married to his wife of 26 years, Christia Montero. They have two children, Mallory Montero (13) and Private First Class Logan Montero (18).



The Sherry Cook Leadership Award

**Congratulations
Marvin!**



Attachment 3

**Commission Report: Executive Director and
Agency Activities, Budget Issues, Staff
Achievements, Legislative Activities**



Commission Meeting March 22, 2016
Executive Director
Sherry Cook

PAULA REED
Deputy Chief Financial Officer



Paula has served the State of Texas for almost 16 years.

- Texas Commission on Environmental Quality as a Program Administrator/Support Staff Manager in the Office of Legal Services
- Lead Budget Analyst for the Field Operations Division.
- Department of Aging and Disability Services (DADS), serving as the Accounting Systems Manager, Accounts Payable Manager and Director of Accounting.
- Private sector as a Finance Manager for a local semiconductor company
- Financial Planner for American Express Financial Advisors.
- Graduate of the DADS Building the Bench Leadership Program,
- Health and Human Services Executive Leadership Academy
- State Auditor's Texas Fiscal Officers Academy.
- Graduate of the Red McCombs School of Business at the University of Texas at Austin,
- Native Austinite and devoted mom of two daughters, Natalie and Nina.

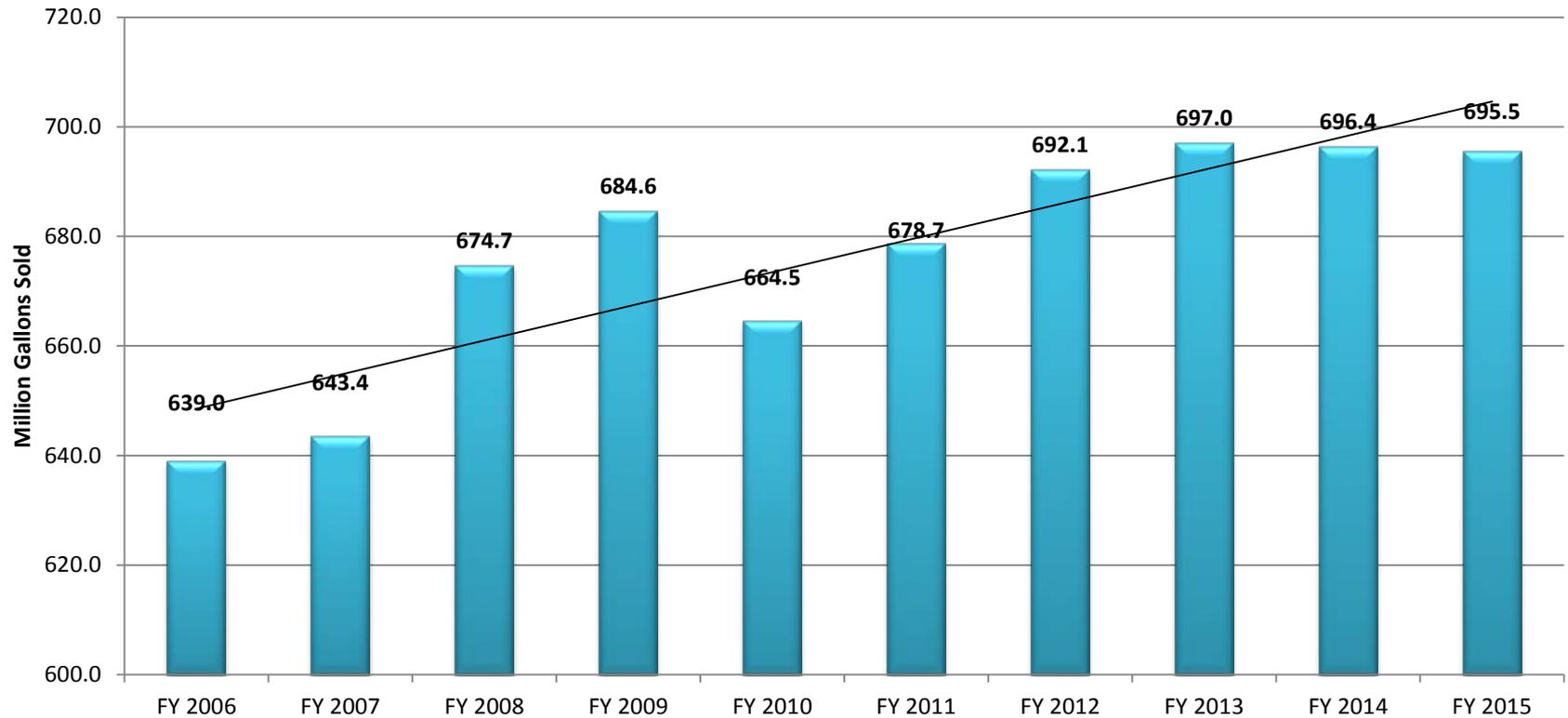
IMPORTANT DATES

- ✚ April 20th
 - ✚ Strategy and Exceptional Item Descriptions/Justifications due from Directors
- ✚ May 24th
 - ✚ Commission Meeting
- ✚ July 5th
 - ✚ Commission Packet Complete – Operating Budget and LAR
- ✚ July 2016
 - ✚ General Revenue Number Received by the Commission
- ✚ July 26th
 - ✚ Commission Meeting : LAR & Operating Budget Approved
- ✚ July 29th
 - ✚ Final report Completed by BSD for Submission to the LBB
- ✚ August 5th
 - ✚ Deadline for the LAR and Operating Budget Submission

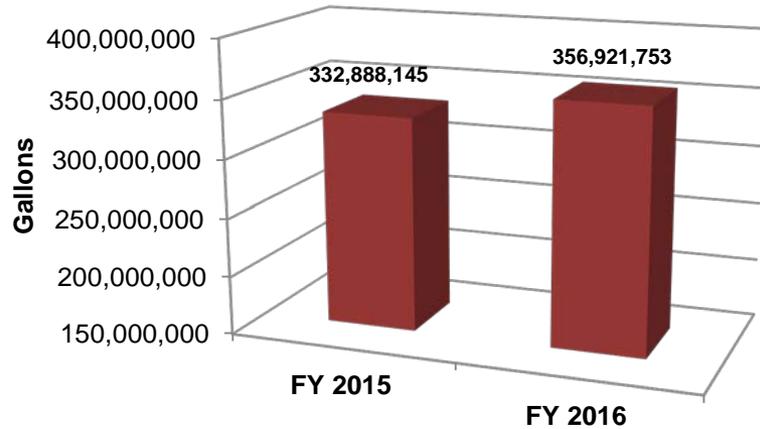


TRENDS

Wholesale Sales of Alcoholic Beverages FY 2006 - FY 2015

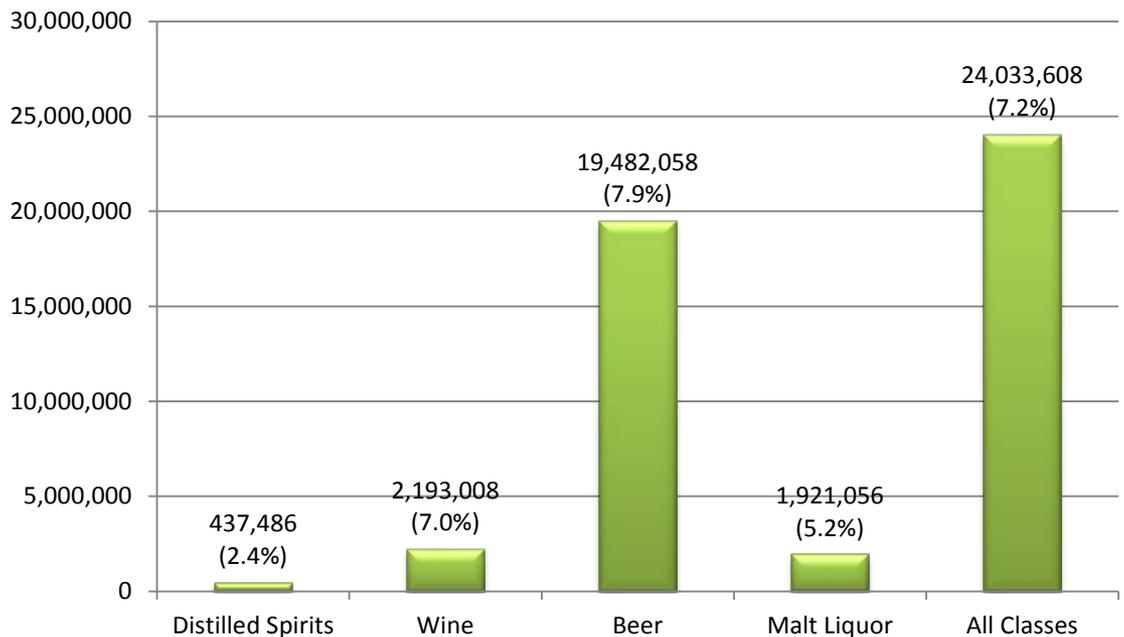


Gallons of Alcoholic Beverages Sold September - February



TRENDS

Changes in Quantities Sold From Sep - Feb FY 2015 to Sep - Feb FY 2016

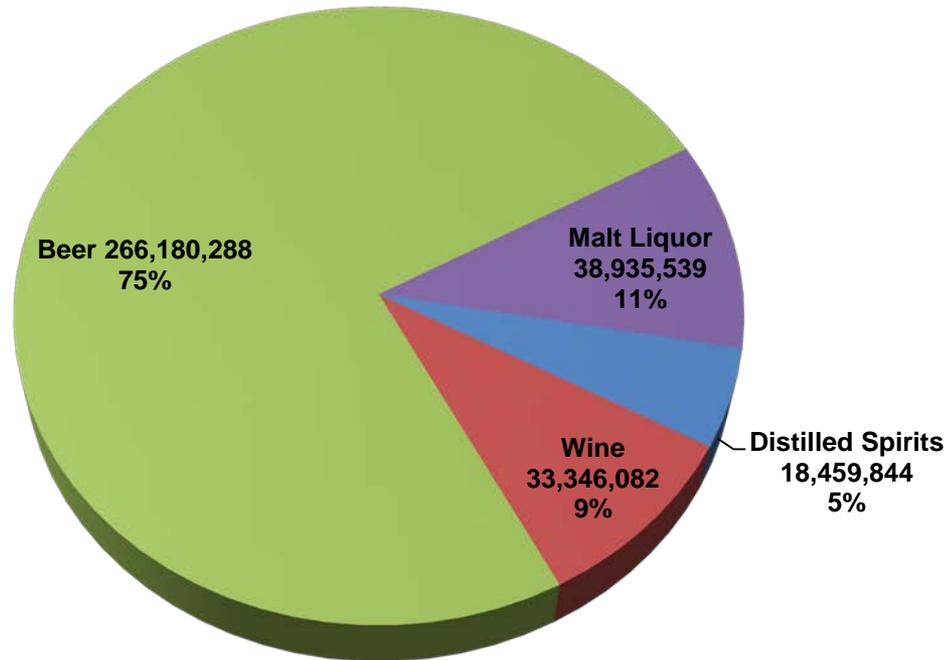


TRENDS

Wholesale Sales in Gallons By Beverage Class

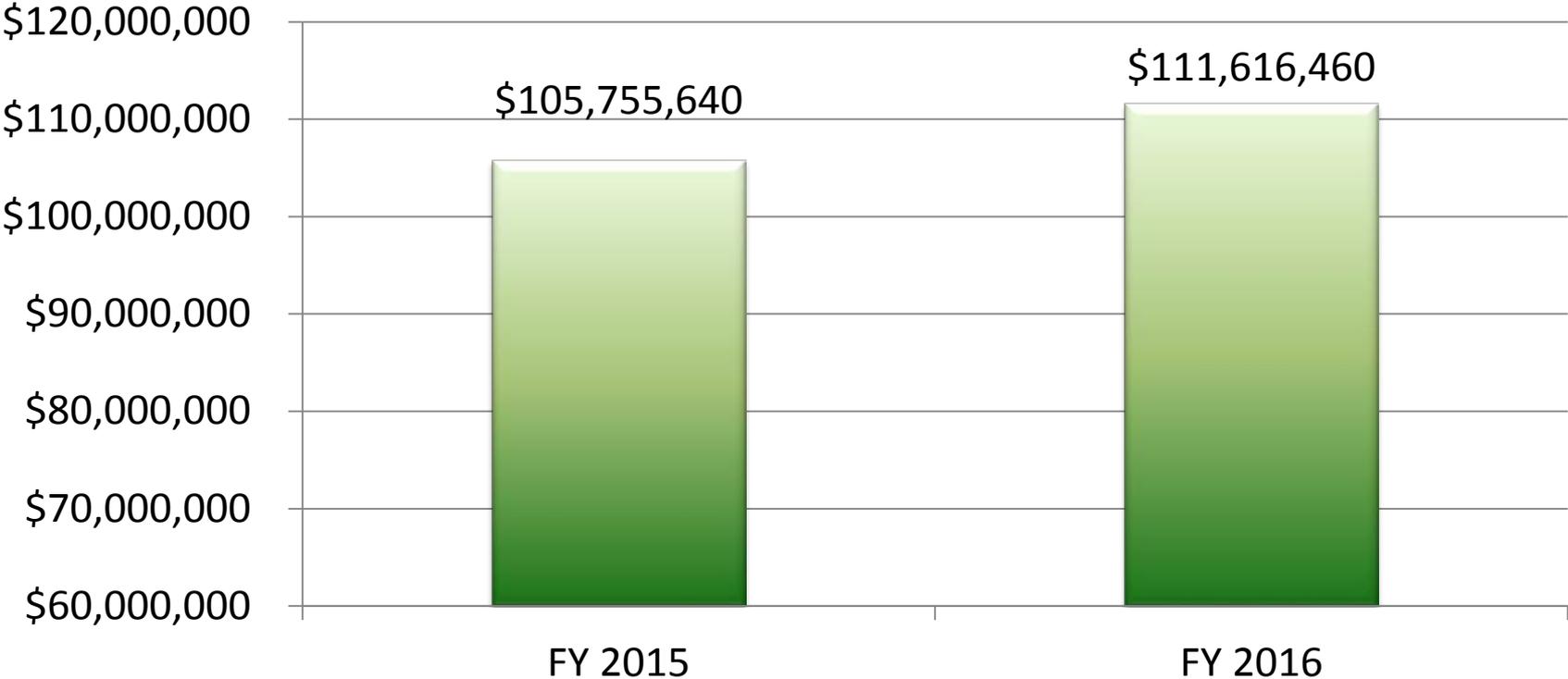
FY 2016: September - February

Total = 356,921,753



TRENDS

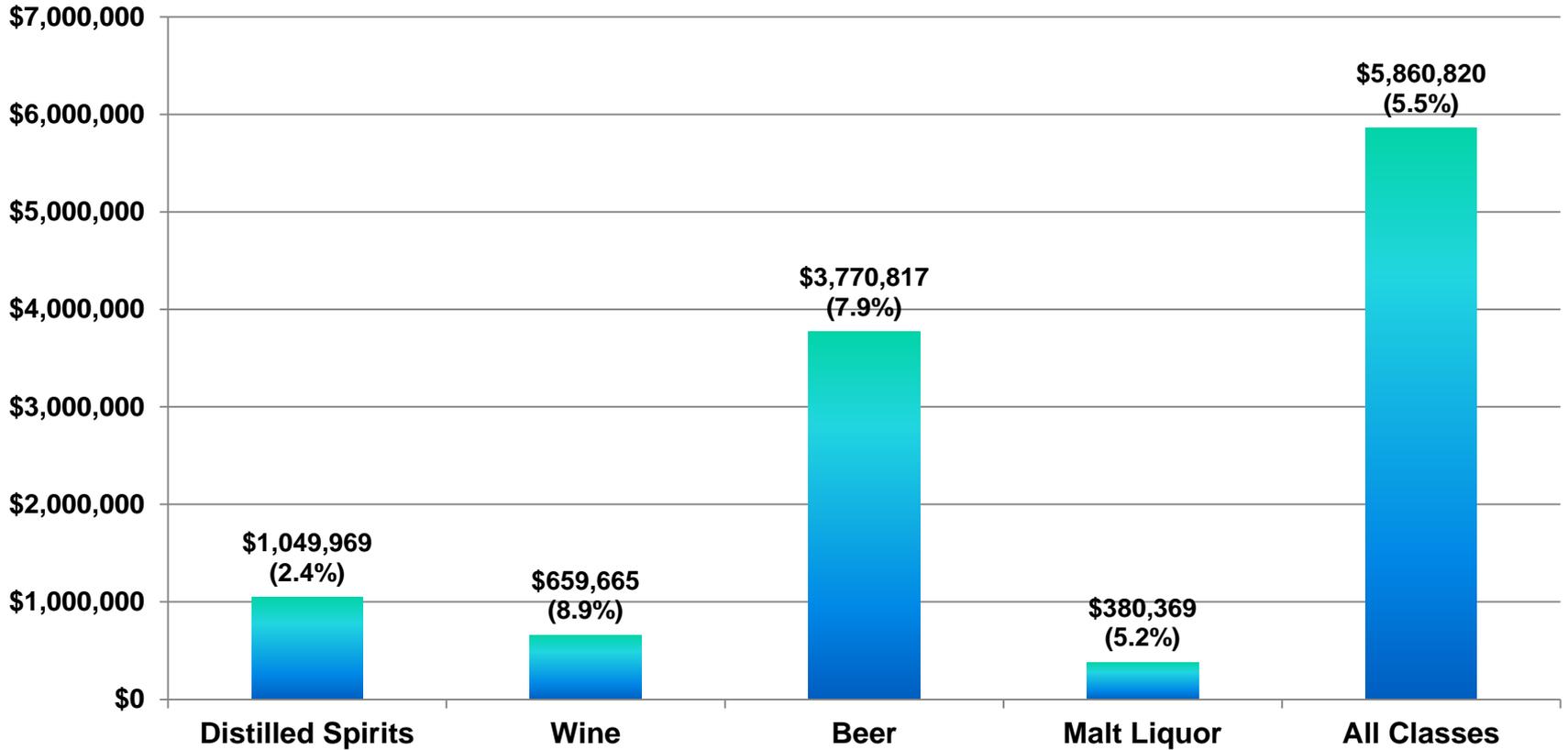
Gross Excise Tax Collections FY 2015 & FY 2016: September - February



TRENDS

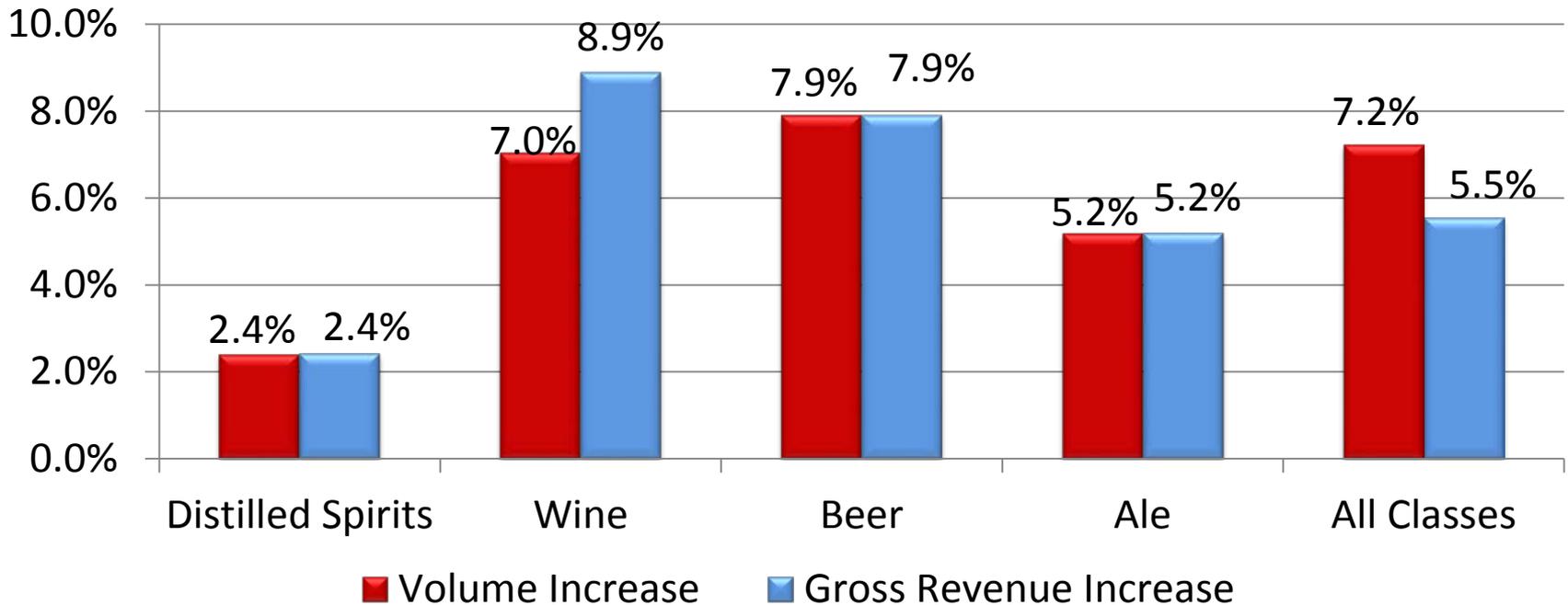
Changes in Gross Excise Tax Collections

From Sep - Feb FY 2015 to Sep - Feb FY 201



TRENDS

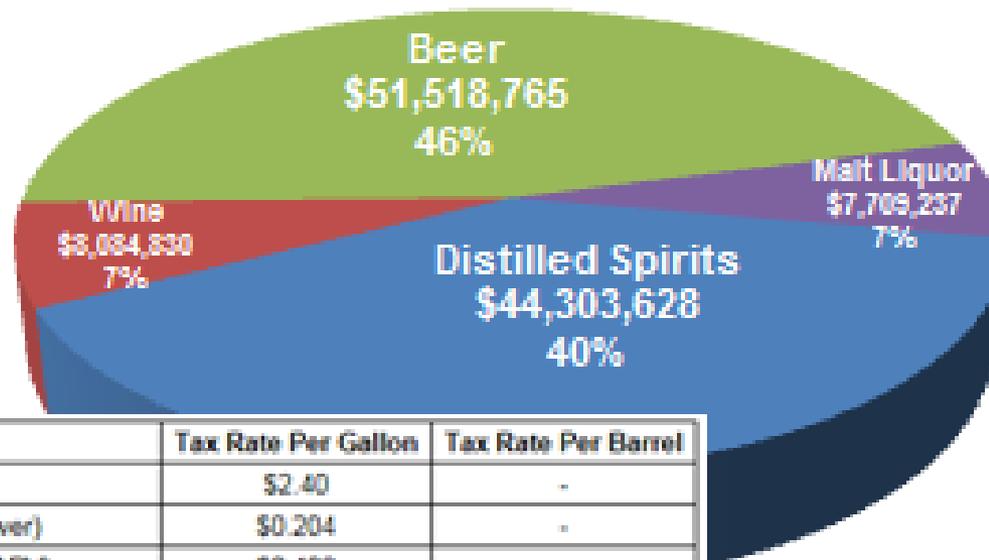
Comparison: Increase in Wholesale Sales Volume & Increase in Gross Excise Tax Revenue FY 2016: September - February



TRENDS

Gross Excise Tax Revenue By Beverage Class

FY 2016: September - February

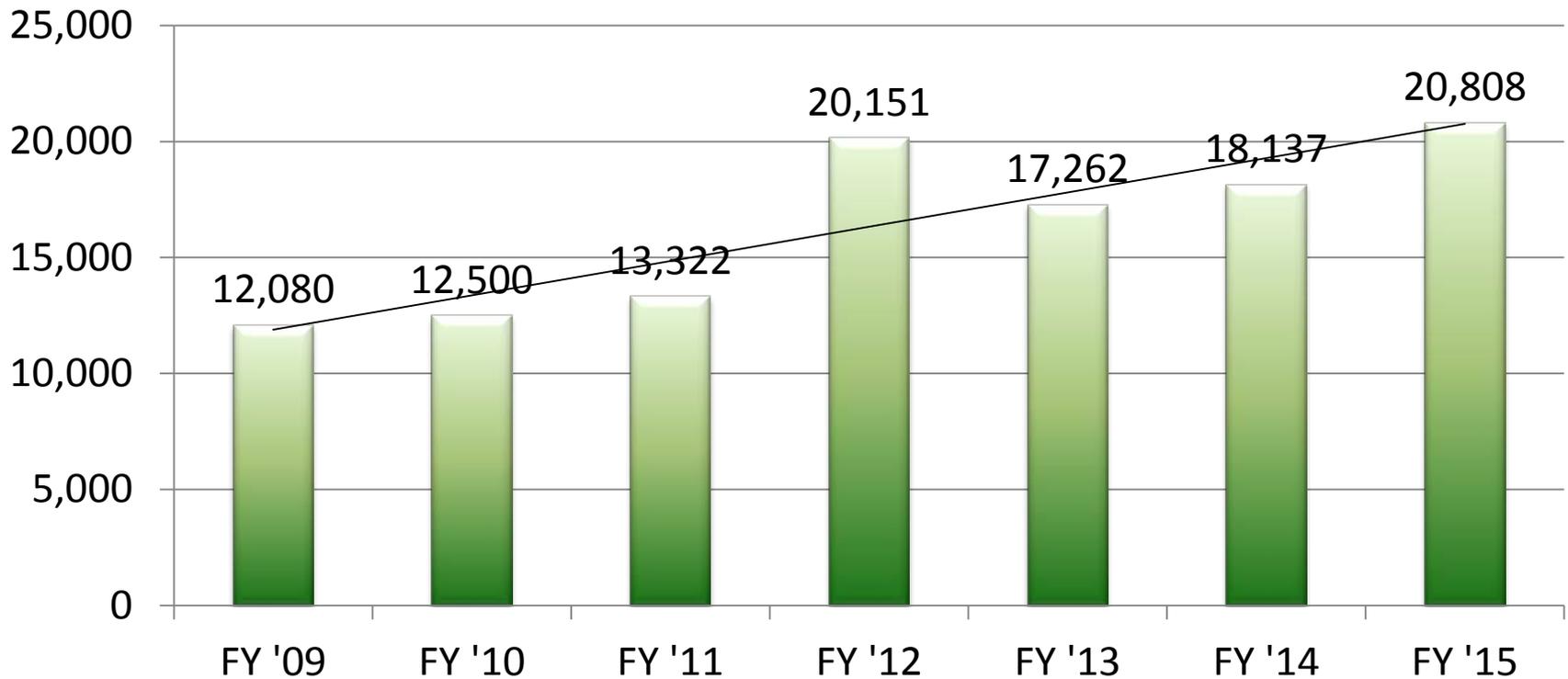


Total = \$111,616,460

Class	Tax Rate Per Gallon	Tax Rate Per Barrel
Distilled Spirits	\$2.40	-
Low Wine (14% ABV and lower)	\$0.204	-
High Wine (more than 14% ABV)	\$0.408	-
Sparkling Wine	\$0.516	-
Beer (4% ABW and lower)	\$0.193548	\$6.000
Ale and Malt Liquor (more than 4% ABW)	\$0.198	\$6.138

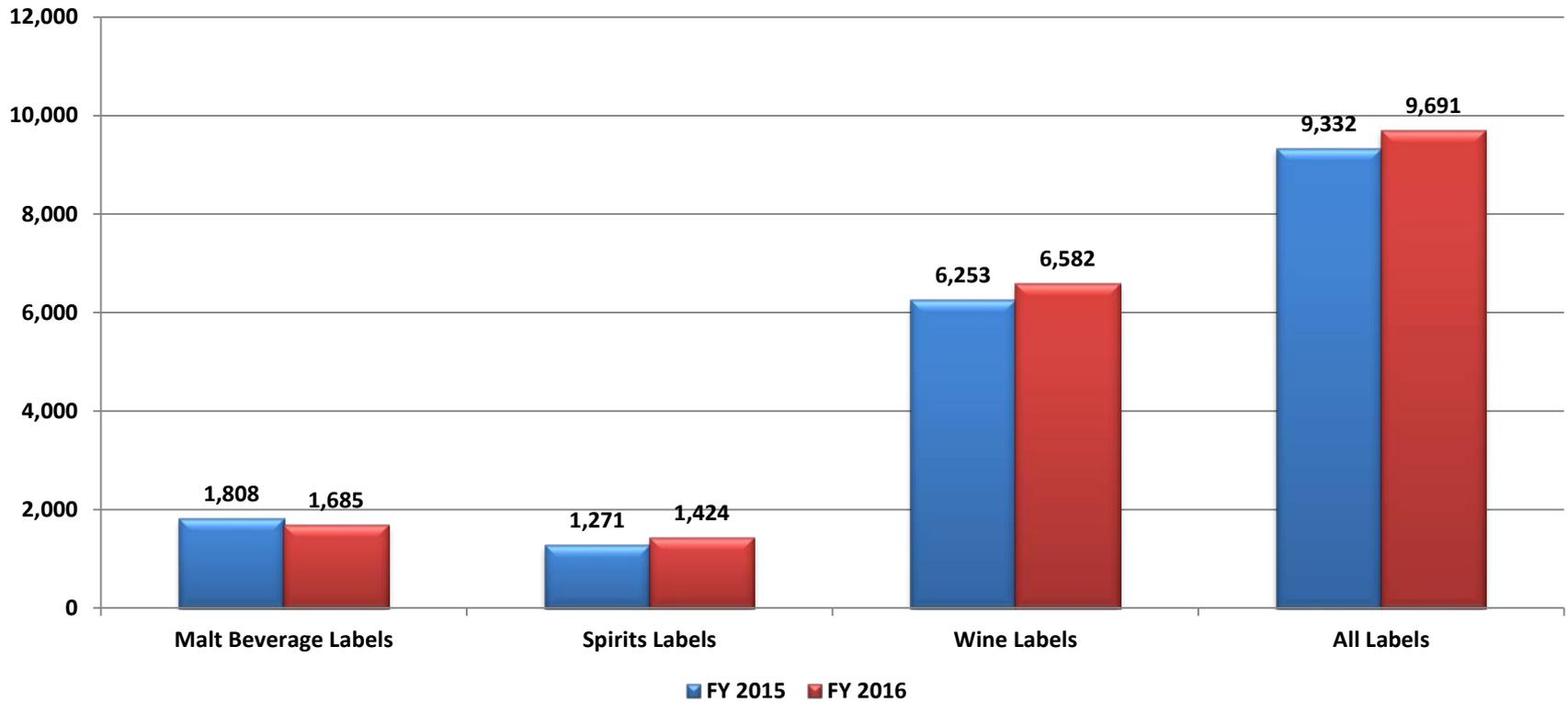
TRENDS

**Label Applications Processed
FY 2009 - FY 2015**

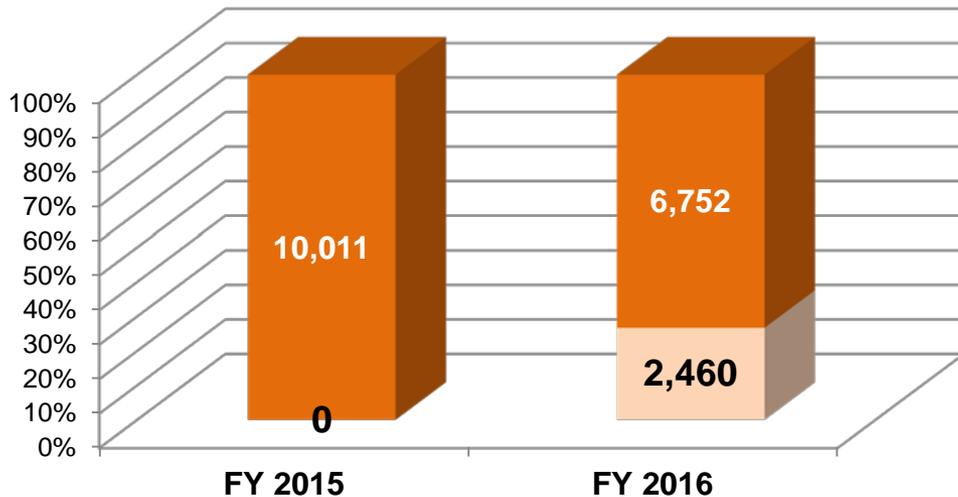


TRENDS

Label Applications Processed by Class
September - February



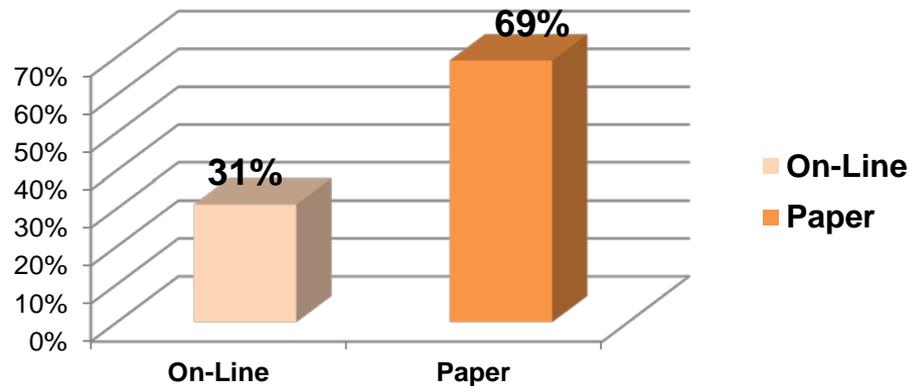
Label Applications Received By Method of Submission September - February



TRENDS

- Paper
- On-Line

Label Applications Received by Method of Submission January 2016 - February 2016





Questions?

Attachment 4

Information Resources Division Briefing



Information Resources Briefing

Jay Webster
Information Resources Division Director

David Brandon
Information Resources Division Assistant Director

March 22, 2016

➤ The Current State of IRD

- The IRD Organization
- Recent Project Successes
- In-Flight Projects
- TABC in the Cloud

➤ The Future of IRD

- Objectives for 2016
- Performance Metrics
- Challenges
- Pending Projects and Initiatives

The IRD Organization

- Fully Staffed
- One new employee since 2015 Briefing
- Qualified Staff
- Improved Maturity and Focus on:
 - Project Management
 - Process Improvement
 - Systems Analysis
 - Information Security
 - ITIL (Service Delivery Standards)

Project Updates – Successes

Snapshot



- Online Renewals: All Permit Types Available Online
- Replicon Time and Leave Project
- Online Ordering of Packaged Store ID Stamps
- On-line Label Approval Project through Versa:Online
- Oracle Supercluster SPARC (Oracle Database as a Service)
- Mobility Project Pilot (Phase 1)
- Re-engineered End-User Computing Environment
- Staffing Master/Revenue Reports/Budget Reports Project
- Neubus Holding Tank
- Ports of Entry - Tornillo Bridge (Fabens), Bayport Cellular Handheld Devices, Hidalgo Wireless Router



In-Flight Projects

Snapshot

- CAPPs Financials Implementation
- Website Modernization
 - TABC.texas.gov & 2Young2Drink
- PC Refresh / End-User Computing Modernization
- Network Upgrades/Quality of Service
- Mobile Broadband In-A-Box Implementation
- Replace Core Router/AVPN (dependent upon DPS)
- Replace CrisNET
- Upgrade servers: Windows 2003 to Windows 2012



➤ Active

- Document Imaging – Neubus
- Email – Microsoft Office 365
- Learning Management System – InformaSystems
- Employee Applicant Tracking – NeoGov
- Help Desk – Zen Desk
- Time Keeping – Replicon
- Package Store ID Stamps - Standard Register

➤ Pending

- Unified Communications – Microsoft Office 365
- CAPPS – Texas Comptroller

Unchanged from 2015

➤ IRD Imperatives

- Protect the environment (security, outages, & data)
- Provide Good Customer Service
- Improve Agency Efficiency through Automation

➤ IRD Priorities

- Break-Fix – Reactive Maintenance (Tickets, Outages)
- Maintain – Preventive Maintenance (Tickets, Upgrades)
- Projects
- Process Improvement - documentation and cross-training
- Celebrate Successes



IRD Performance Metrics

	Dec 2015	Jan 2016	Feb 2016	Goal
Information Resources Services				
Service Categories	15	15	15	-----
Total Services	130	130	130	-----
Network				
Average Network Availability	99.76%	99.04%	97.38%	98.90%
Help Desk Tickets				
Tickets Resolved	631	716	809	-----
Average Open Tickets (Backlog)	213	234	280	150
Urgent Tickets Unassigned within 1 hour	0	0	0	0
Urgent Tickets Unresolved within 48 hours	0	0	0	0
Enterprise Software				
Number of Information Systems	28	28	28	-----
Number of Mission-Critical Information Systems	4	4	4	-----
Number of Software Failures	0	1	1	0
Number of Software Defects	0	0	0	0

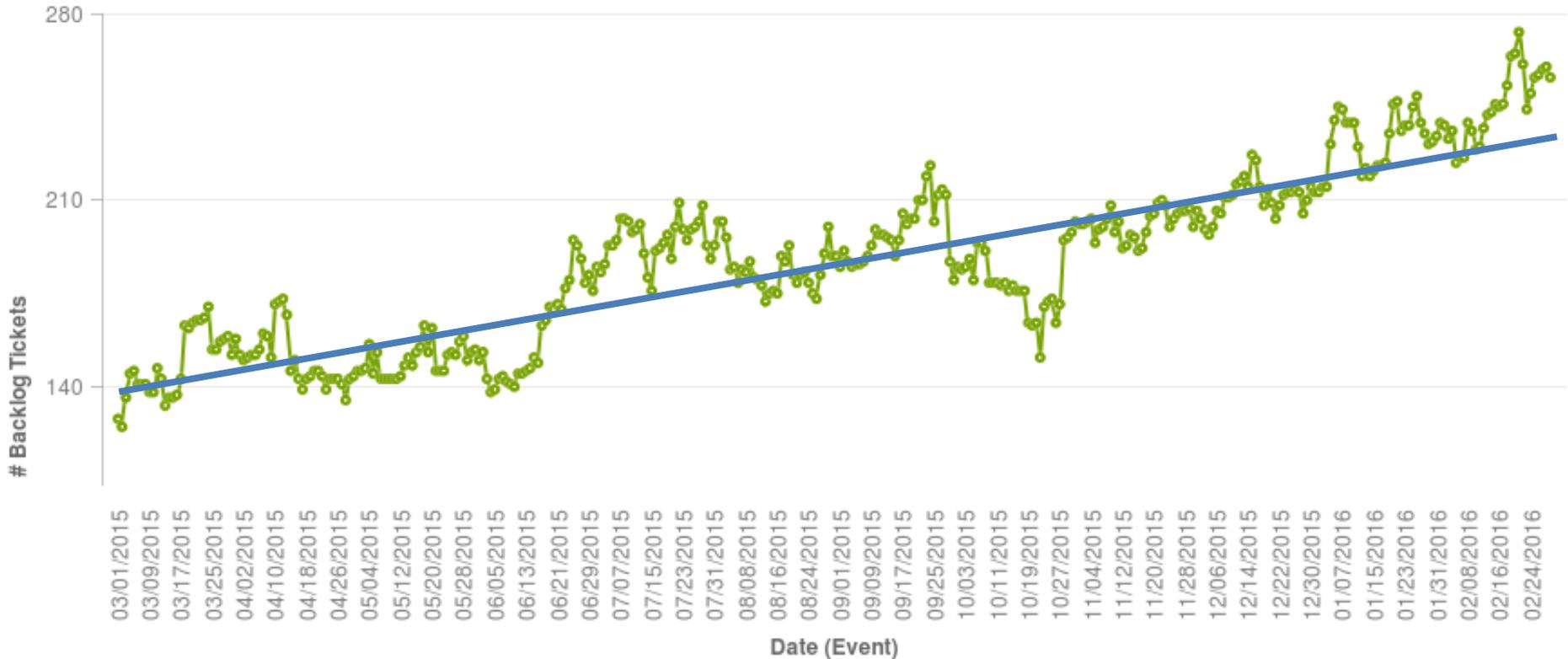


IRD Performance Metrics

Projects	Dec 2015	Jan 2016	Feb 2016	Goal
Number of Active Projects	22	24	30	-----
Number of Pending Projects	66	68	65	-----
Number of Horizon Projects	28	28	28	-----
Security				
Blocked Connections	394,186	693,544	733,148	-----
Blocked Spam	23,441	17,743	20,614	-----
Quarantined Spam	80,406	78,198	120,370	-----
Viruses	270	270	288	-----
Allowed E-mail (including outbound email)	193,098	227,080	267,424	-----
SPX Encrypted	71	75	121	-----
Blocked by Web Filter	23	10	8	-----
Blocked by SAV	2	0	0	-----
Blocked by IPS	7	1	4	-----

Help Desk Backlog

Number of open tickets each day/week over the past year





IRD Challenges

- Unlimited Demand for Technology – Limited Resources
- Ever-Increasing Cyber Security Threats – Reduction in Resources
- Increasing Pace of Changing Technology & Incompatibility
Across Technology Platforms
- Increasing Requests for Public Information
- Broader Reach – From supporting TABC employees to
transacting business around the world
- Shifting role of IRD from tech provider to tech broker
- Realization that the Private Sector can often provide better
services at reasonable costs
 - Managed Data Center Services (since 2007)
 - Credit Card Processing (since 2014)
 - Managed Network Services (pending)
 - Managed Ports of Entry Services (pending)
 - Managed Print/Mail Services (conceptual)



Pending Projects

Snapshot

- CAPPs Enterprise Resource Planning (Human Resources)
- Security Program: Near-Term Recommendations (LAR)
- Case Management (LAR)
- Excise Tax Automation (LAR)
- Multiple Process Improvements
- Lotus Notes Migration: Travel Tracking, Access Management (IAMS) and Legislative/Media Contacts
- Online Civil Penalty Collections
- Open Records Controls and Automation
- Online Original License Applications

Questions ?

Attachment 5

Licensing Division Briefing



Licensing

Divisional Update

March 22, 2016

Amy Harrison, Director

WE are Licensing !



A division of
Innovators & Doers

Dedicated to Success !



Innovations...

- * V-Box
- * Barcodes
- * Interviews/Responsibility Courses On-line
- * Work from Home-Telecommuting
- * Revision/Update of all L/P application forms
- * Divisional In-Service
- * On-line Renewals
- * On-line Originals



Doers...

FY16 to Date Comparison

FY16 to Date

- * Fees, Surcharges, Late Fees: \$37,380,423
- * Applications Processed: 42,793
- * Original Apps Approved: 10,784
- * Renewal Apps Approved: 21,832
- * Field Temporaries Issued: 2,682
- * Field Caterers Issued: 7,351

FY15 to Date

- * Fees, Surcharges, Late Fees: ↑ 58%
- * Applications Processed: ↑ 25%
- * Original Applications Approved: ↑ 14%
- * Renewal Applications Approved: ↑ 40%
- * Field Temporaries Issued: ↑ 2%
- * Field Caterers Issued: ↑ 2%



Doers...

FY15 Totals

- * Images: Over ½ Million Images Created
- * Phone calls-HQ only: 15,109
- * Entities Created: 63,920



Trends & Statistics

New Business Interest

- * Coffee Shops
- * Bookstores
- * Discount Dry Good Stores
- * Funeral Homes
- * Senior Citizen Facilities
- * Fast Food Chains
- * Family Entertainment Venues

Putting responsible people into business one license/permit at a time...



On the Horizon:

- * Bar Coding Renewal Applications
- * Bar Coding Field Operations Forms
- * On-line Original Retail Applications
- * Paperless License/Permit (Beacon)



Dedicated to Success:

* Through T E A M work !



Attachment 6

**Internal Audit of the Field Operations Audit
Administration**

**Internal Audit of the Field Operations
Audit Administration
As of January 04,2016
At the
Texas Alcoholic Beverage Commission**



MONDAY RUFUS & CO., P.C.

Certified Public Accountants & Advisors

Commission Members
Texas Alcoholic Beverage Commission
Austin, Texas

We have conducted an internal audit (audit) of the Field Operations Audit Administration at the Texas Alcoholic Beverage Commission (Commission) as of January 04, 2016. The results of our audit disclosed that the Commission has procedures and controls in place related to the Field Operations Audit Administration. We noted some opportunities for enhancing the controls in place in the Field Operations Audit Administration processes.

The report that accompanies this letter summarizes our comments and recommendations.

Monday Rufus & Co., P.C.

January 04, 2016
Austin, Texas

Internal Audit Results

Summary of Internal Audit Results

There are written policies and procedures being implemented for field operations audit administration functions and activities. Audit Unit auditors also follow the Commission's Audit & Investigations Division policies and procedures which are in place to provide reasonable assurance that the Commission is in adherence and compliance with state and federal requirements regarding field operations.

The Commission can enhance the Audit Unit's Field Training Program processes by ensuring compliance with the Field Training Program Manual regarding consistent evaluation reporting of Probationary Auditors during the Field Training Program phases.

There were no other deficiencies detected in the audit of the Field Operations Audit Administration that are significant to the objectives of this audit. Any insignificant issues noted have been communicated to the management of the Commission as required by *Government Auditing Standards*.

Finding 1

Finding 1: The Field Training Manual Procedures Are Not Being Complied With In The Training of Audit Unit Probationary Auditors:

Criteria:

The TABC's Field Training Program is for Audit Unit Probationary Auditors who are assigned to perform the Agency's general compliance duties and is designed to provide performance evaluation and training to Probationary Auditors. The Field Training Program consists of five (5) phases, with Phases I-IV each being completed within one (1) month, and Phase V completed within two (2) months for a total of six (6) months. During the Training Program's 5 phases the Probationary Auditor will be working under a Field Training Auditor (FTA). The Probationary Auditor is to be evaluated by the FTA after each of the 5 phases. The Field Training Program manual includes the following written policies and procedures:

1. The FTA is to prepare a "Weekly Observation Report" (*COM-FTA 001-005*) and "Acknowledgement of Training" (*COM-FTA 006-011*) to document the progress of the Probationary Auditor.
2. The Region Office Audit Supervisor's Phase Report (SPR) COM-SPR is to be completed and signed, at the end of each training phase, scanned, and saved to the Probationary Auditor's folder in the TABC agency intranet.
3. The Field Training Program requires that a folder be kept for each Probationary Auditor.
4. At the completion of the Field Training Program, the Probationary Auditor's folder shall be sent to the Assistant Chief of Field Operations for review and to certify the Probationary Auditor's completion of the Field Training Program.
5. The Assistant Chief of Field Operations is to forward the Probationary Auditor's folder to the TABC Training Division who is to be the custodian of the training folder.

Finding 1(cont'd)

Condition:

1. Required Weekly Observation Reports (*COM-FTA 001-005*) and Acknowledgement Reports (*COM-FTA 006-011*) were not being consistently prepared after each phase for the Probationary Auditors by the assigned Field Training Auditors for the two Region Office locations tested.
2. Region Office Audit Supervisor's Phase Reports (SPR) COM-SPR are not being consistently completed after each of the 5 Field Training Program phases.
3. A Field Training Program folder is not being kept for each Probationary Auditor at the two (2) Region Office locations tested.
4. The Assistant Chief of Field Operations is not receiving a training folder from the Region Offices for Probationary Auditors completing the Field Office Training Program.
5. There are no controls in place to ensure consistent compliance with Probationary Auditors field training established policies and procedures.
6. The TABC Training Division has not received any folders or documents regarding Probationary Auditors after completion of the Field Training Program.

Effect:

1. Lack of consistency in compliance with the Audit Unit's Field Training Manual policies and procedures.
2. Lack of consistency in the field operations evaluation processes for Probationary Auditors.
3. Inconsistent chain of command procedures due to Field Training Manual not being updated to include current Audit Unit management changes.
4. Lack of documentation in the Training Division training files for training conducted and received by Audit Unit Probationary Auditors.
5. Audit Unit Probationary Auditors not receiving credit for training received if not documented in their training files.

Finding 1(cont'd)

Recommendations:

1. The Audit Unit's Field Training Program Manual should be updated to incorporate the management changes made in the Audit & Investigations Division which also affect the chain of command regarding the Audit Unit's - *Field Training Auditor (FTA) Documentation Reporting Procedures*. One of the recent management changes is the addition of the Audit Unit Director position.
2. Region Office Audit Supervisors should ensure that Field Training Auditors (FTAs) prepare the required evaluation forms for the Probationary Auditors after each of the 5 training phases.
3. Region Office Audit Supervisors should set up Probationary Auditor folders on the TABC intranet and monitor to ensure that each Probationary Auditor's folder is kept current during each of the five training program phases.
4. The Probationary Auditor training folder should be sent to the Training Division at the completion of the Probationary Auditor's Field Training Program.

Management's Response:

Concur with the findings. The Audit Training Program was developed in house in December 2012 and put in to place in the field in April of 2013. In reviewing the files, it appears the training was taking place, but the documentation and filing of required reports was not consistent. We concur with your recommendations to correct problems in the documentation and filing of reports related to the training program. The ACFO will meet with the Director of Audit to review the FTA Program Procedures Manual to correspond with recent management changes along with implementing internal controls to ensure required reports are filed correctly. We should have this completed by May 31, 2016.

Internal Audit Objective 3: Safeguarding of Assets

Matter For Further Consideration

Matter for Further Consideration: Disposition of Confiscated/Seized Property Cases Stored In Evidence Room Safes Not Being Timely Tracked

On a quarterly basis, at a minimum, the Evidence Custodian will review all active evidence in the Evidence Room and provide the Audit Supervisor a list of evidence on hand. The Audit Supervisor will provide the active evidence list to the appropriate Enforcement or Investigations Supervisor for Certified Peace Officer (CPO) assignment to determine current case status. Case status from CPOs is obtained and provided to the Evidence Custodian in a timely manner (within 30 days.)

A comparison between current printouts of the logged seized serial numbers for the evidence/seized property and the items stored in each of the two Region Office locations Evidence Storage Room safes disclosed that some of the confiscated/seized property (including cash) had been stored in the safes for over ten years.

Criteria:

The TABC Field Operations Evidence Procedures (4/28/2015) requires that all active evidence be reviewed on a quarterly basis, at a minimum, with criminal cases where evidence was seized being tracked every 30 days to ensure adherence to the Code of Criminal Procedure (CCP§18.18) - *Disposition of Gambling Paraphernalia, Prohibited Weapon, Criminal Instrument, and Other Contraband.*

Matter for Further Consideration(cont'd)

Condition:

Audit Results: Region IV (Austin)

At the time of the internal audit there were 300 evidence items in the Evidence Storage Room safe dating from fiscal years 2004-2015. Seventy-two (72) 24% of the evidence items were from fiscal year 2004 and had been assigned to 17 Certified Peace Officers (CPOs) during that period; some of who may not be currently employed at TABC.

Fiscal	Seized	
<u>Year</u>	<u>Serial #s</u>	<u>Percent</u>
2015	33	11
2014	40	13
2013	26	09
2012	39	13
2011	11	04
2010	11	04
2009	08	02
2008	18	06
2007	21	07
2006	10	03
2005	11	04
2004	<u>72</u>	<u>24</u>
Totals	<u>300</u>	100%

According to the fiscal year 2015 *Chapter 59 Asset Forfeiture Report by Law Enforcement Agency* submitted by TABC to the Office of the Attorney General among the stored evidence included in the safe were \$4,335.12 (cash).

Matter for Further Consideration(cont'd)

<u>Fiscal Year</u>	<u>Currency Items</u>	<u>Currency Amount</u>
2011	1	\$ 8.54
2010	2	52.00
2009	1	408.00
2006	4	884.00
2004	<u>12</u>	<u>2982.58</u>
Totals	<u>20</u>	<u>\$4335.12</u>

Audit Results: Region V (San Antonio)

At the time of the internal audit there were 169 evidence items in the Evidence Storage Room safe dating from fiscal years 2004-2014. Thirty-eight (38) 22% of the 169 seized serial numbers were assigned to envelopes containing a total of \$10,657.17 in cash dating back to fiscal year 2004.

<u>Fiscal Year</u>	<u>Seized Serial #s Logged</u>	<u>Percent</u>
2014	35	21
2013	06	04
2012	20	12
2011	23	14
2010	16	09
2009	07	04
2008	04	02
2007	16	09
2006	07	04
2005	11	07
2004	<u>24</u>	<u>14</u>
Totals	169	100 %

Matter for Further Consideration(cont'd)

Court Order dated November 8, 2013 from the Criminal District Court of Bexar County directed the Texas Alcoholic Beverage Commission to take possession and destroy 650 confiscated/seized items included in 120 TABC assigned seizure serial numbered cases. Confiscated/seized items for eighteen (18) of the seized serial numbers listed on the Court Order had not been destroyed as of the time of the internal audit. Included in the Court Order list were \$937.00 which were part of the \$10,657.17 in the Evidence Storage Room safe.

<u>Fiscal</u> <u>Year</u>	<u>Seized</u> <u>Serial Nos.</u>	<u>Cash</u> <u>Amount</u>
2009	118904	\$245.00
2008	102999	314.00
2007	111786	251.00
2004	082658	<u>127.00</u>
	Total	<u>\$937.00</u>

The Criminal District Court Order issued on November 8, 2013 only included cases with TABC seized serial numbers dates from 6/06/2007 through 09/11/2013. The evidence printout for the Evidence Storage Room safe listed confiscated/seized items ranging from 3/12/2004 through 07/15/2014.

Matter for Further Consideration(cont'd)

Cause:

The status of older confiscated evidence cases are not being tracked on a timely basis as required by Section *V. Disposition* of the Field Operations Evidence Procedures used to determine if a case has been closed and/or adjudicated in order to destroy or sell court forfeited evidence.

Effect:

The chain of custody process may be at risk for active confiscated/seized property cases if the disposition status of the cases are not tracked on a timely basis. The chain of custody may also be affected by changes of Evidence Custodians and Certified Peace Officers over a long period of time (e.g. fiscal years 2004 through 2014).

There is the possibility of TABC receiving part or all of the seized cash stored in the Evidence Storage Room safes if the cases were closed by the courts and the evidence forfeited to TABC. These forfeited funds may be used to enhance compliance monitoring in the field operations program.

Closing of confiscated/seized evidence cases and disposal /destruction of evidence stored in the Evidence Storage Room safes would make needed space available to store seized evidence from recent cases.

Matter for Further Consideration(cont'd)

Recommendation:

Confiscated/seized evidence in the two Region Office locations consisted mainly of narcotics, currency, and some weapons. Management should:

- a. Determine if the evidence cases starting from fiscal year 2004 through fiscal year 2015 are currently assigned to Certified Peace Officers
- b. Determine the current status for confiscated/seized cases stored in the Evidence Storage Room safes.
- c. Consider filing court motions for destruction of confiscated/seized evidence items stored in Evidence Storage Room safes.
- d. Determine if there are Memorandums of Agreement with the current, local District Attorneys regarding the sharing of these confiscated/seized evidence case funds or if the funds can be forfeited to the seizing agency.

Matter for Further Consideration(cont'd)

Management Response: *Auditors basically serve as custodians for property that is seized or purchased as evidence by Enforcement Agents. The following recommendations were made in the audit:*

- a) *Determine if the evidence cases starting from fiscal year 2004-2014 are currently assigned to Certified Peace Officers.*

Management Response: Every case is originally assigned to the officer that seized or purchased the evidence. It is their responsibility to follow up with the local legal authorities (court) to determine if and when the case associated with the evidence is settled. In most property issues, there are two cases, one administrative against the permit holder and one criminal that is filed against an individual associated with the location. The agency settles and tracks the administrative. The agency is often at the mercy of local legal jurisdictions with it comes to settling criminal cases. Some can take years depending on the area of the state. The Confiscated Property Procedures Manual requires that the custodian prepare a quarterly report of items to be researched by Enforcement. This report is provided to local Enforcement Supervisors to be researched and updated for the possible disposition of evidence. Over time, Enforcement Agents, transfer within the agency, retire, or leave the agency for various reasons; thereby leaving the evidence unassigned to a specific agent to track through the legal system. In these cases, based on the quarterly reports provided to Enforcement, cases without a current COP are reassigned to another CPO to work. See Field Operations Evidence Procedures Manual – Section V – Dispositions.

Matter for Further Consideration(cont'd)

- a) ***Determine the current status for confiscated/seized cases stored in the Evidence Storage Room safes. See response (a) above***
- b) ***Consider filing court motions for destruction for confiscated /seized evidence items stored in Evidence Store Room Safes***

Management Response: Based on Enforcement research, Custodians are currently responsible for the destruction of evidence no longer needed for court. This will include assisting in filing court motions to provide for the disposition or sale of property depending on the nature of the property. Please see Field Operations Evidence Procedures Manual – Section V – Dispositions. A concerted effort will be made to ensure all property with case dispositions are scheduled for destruction.

- c) ***Determine if there are Memorandums of Agreements with the current, local District attorneys regarding the sharing of these confiscated /seized evidence case funds or if the funds can be forfeited to the seizing agency.***

Management Response: Historically across the state we have entered into MOU's with local jurisdictions to govern the sharing of forfeiture funds. We will request that our Enforcement management staff follow up with local jurisdictions to ensure existing MOU's are up to date and/or to pursue the implementation of new sharing agreements. The commission will consider assigning a Field Operations Manager to be in the primary responsible party for all Confiscated/Seized Property, Storage and Maintenance. In addition the Commission will consider adding Bar Codes to all confiscated/seized property to enhance accountability/safeguarding of such property.

Report Distribution

Report Distribution

As required by Gov't Code 2102.0091, copies of these reports should be filed with the following:

Governor's Office of Budget and Planning

Attn: Kate McGrath

Phone: (512) 463-1778

Internalaudits@governor.state.tx.us

Legislative Budget Board

Attn: Ed Osner

Phone: (512) 463-1200

Ed.Osner@lbb.state.tx.us

State Auditor's Office

Attn: Internal Audit Coordinator

Phone: (512) 936-9500

iacoordinator@sao.state.tx.us

Sunset Advisory Commission

Attn: Ken Levine

Phone: (512) 463-1300

sunset@sunset.state.tx.us

Texas Alcoholic Beverage Commission

Jose Cuevas, Jr., Presiding Officer

Steven M. Weinberg, MD, JD

Ida Louise "Weisie" Steen

Texas Alcoholic Beverage Commission Management

Sherry Cook, Executive Director

Attachment 7

Rules, Agenda Items 12-28

March 22, 2016 Commission Meeting

Agenda Item 12: Adopt Amendments to Rule §33.9, Fees for On-Line Transaction

The Texas Alcoholic Beverage Commission adopts amendments to §33.9, relating to Fees for On-Line Transaction, without changes to the proposed text as published in the February 12, 2016, issue of the *Texas Register* (41 TexReg 1059). No comments were received.

Section 33.9 sets the fees for on-line transactions with the commission. The amendments clarify that the fees for a credit card transaction are 25 cents, plus 2.75 percent of the total transaction amount. The amendments establish a flat fee of one dollar for a transaction paid by ACH or electronic check. The fees are consistent with those required by Texas.Gov, which processes the commission's on-line transactions.

Section 33.9 was also reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for readoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

The amendments are adopted pursuant to Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code, and §5.55, which grants authority to charge reasonable service fees for the use of electronic or internet service to apply for licenses, permits or certificates.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Text of rule as amended: §33.9 Fees for On-Line Transaction.

- (a) This rule relates to §5.55 of the Alcoholic Beverage Code.
- (b) A service fee of \$0.25 shall be assessed for each on-line transaction paid by credit card.
- (c) An additional fee of 2.75% of the total transaction amount shall be assessed for transactions paid by credit card.
- (d) A service fee of one dollar (\$1.00) shall be assessed for transactions paid by ACH or electronic check.

Text of rule showing changes made by amendments: §33.9 Fees for On-Line Transaction.

- (a) This rule relates to §5.55 of the Alcoholic Beverage Code.
- (b) A service fee of \$0.25 shall be assessed for each on-line transaction paid by credit card.
- (c) An additional fee of 2.75% of the total transaction amount shall be assessed for transactions paid by credit card.
- (d) A service ~~An additional~~ fee of one dollar (\$1.00) ~~0.5% of the total transaction amount~~ shall be assessed for transactions paid by ACH or electronic check.

March 22, 2016 Commission Meeting

Agenda Item 13: Adopt Amendments to Rule §41.52, Private Clubs – In General

The Texas Alcoholic Beverage Commission adopts amendments to §41.52, relating to Private Clubs – In General, without changes to the proposed text as published in the February 12, 2016, issue of the *Texas Register* (41 TexReg 1060). No comments were received.

Section 41.52 sets forth general rules relating to private clubs. The amendments make grammatical changes, change outdated references, correct internal references, change gender-specific references to gender-neutral references, or change the word "administrator" to "executive director" (pursuant to Alcoholic Beverage Code §5.11(b) and commission practice).

The amendments provide that subsection (c)(1)(F) references to tax bond requirements apply to any bond that may otherwise be required, but remove an affirmative obligation in this section that a bond be maintained. This is consistent with the commission's treatment of tax bonds generally.

The amendments also eliminate the food service requirement in subsection (e) for "complete" meals. Clubs may fulfill the food service obligation by contracting with an outside vendor. The food has to be available upon request and be delivered to and served on the club's premises. In addition, payment for the food service has to be made by the member to the club, and not to the outside vendor.

Section 41.52 was reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for re-adoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

The amendments are adopted pursuant to Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Text of rule as amended:

§41.52. Private Clubs--In General.

(a) *Scope.* This section does not apply to temporary members or to hotel patrons, as described in the Alcoholic Beverage Code, §§32.09, 32.10, and 32.11. In addition, subsection (c)(1)(G) and (H) and subsection (e) of this section do not apply to fraternal organizations or to veterans' organizations.

(b) *Definitions.* The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

- (1) *Club* - A private club.
 - (2) *Member and membership* - a member of and membership in a private club.
- (c) *Membership and related topics.*
- (1) No private club shall be qualified to hold a private club registration permit unless it shall:
 - (A) have 50 or more members at all times;
 - (B) have a membership committee composed of three or more members of the club and vested with authority by charter, by-law or regulation to approve or reject membership applications and terminate existing memberships. The governing body of a club, if qualified under this provision, may be the membership committee, and when functioning as such shall be subject to and governed by all provisions herein relating to the membership committee. When considering a membership application or termination of membership, the membership committee shall keep written minutes showing the meeting date, the names of all committee members present, the name of any person admitted to membership, and the name of any person whose membership was terminated. No minutes shall be required of any discussion or action regarding a membership application which is denied;
 - (C) have, other than charter members, no members except those approved by at least three members of the membership committee at a meeting of such a committee;
 - (D) keep a well-bound book in which is shown the following about each member: the full name of the member, the member's initial membership number which shall be issued in sequence, the current complete address of such member, the date such member was admitted to membership, and the date such member was removed from membership. When a member has been removed from membership, the membership number may be reassigned to another member. Additional well-bound books may be used if necessary to record the information required by this paragraph, but all such books shall be kept permanently by the club. A club using a computer system to maintain its membership records shall not be required to keep a well-bound book if such computer system provides the information as required by the executive director, and is approved in writing by the executive director or the executive director's designee;
 - (E) keep all books, records and minutes required herein on the premises of such club, and make them available to any representative of the commission upon reasonable notice;
 - (F) maintain in force any bond required and executed by the corporation as principal, if an incorporated club, or by an officer of the club as principal, if an unincorporated club. Such bond shall be executed by a surety company duly authorized and qualified to do business in this state, as surety, in an amount required by rule of the commission payable to the State of Texas conditioned that all fees and taxes owed by such club to the State of Texas shall be paid. Such bond shall be in a form approved by the executive director and the attorney general of Texas;
 - (G) if operating under the locker system, at all times keep all liquor owned by each member under the locker system in a locker located on the premises and rented only to such member, except when the member, one of the member's family or the member's guest is present on the premises and using such liquor; and
 - (H) if operating under the pool system, keep a well-bound book in which is recorded the following about each member of the pool: the member's name and membership number, the date and amount of each liquor pool assessment, and the date of payment of the

assessment. The information required to be kept in a book by this subparagraph may be kept in the book required in subparagraph (D) of this paragraph. A club using a computer system to bill each member of its liquor pool shall not be required to have such well-bound book if such computer system provides the information required by the executive director and is approved by the executive director or the executive director's designee.

(2) No membership shall be terminated except by action of the membership committee or by written resignation of the member. Resignation of any member shall be recorded immediately in the minute book of the membership committee and in the records required by subparagraph (D) of this paragraph.

(3) The executive director may, after notice and hearing, refuse to issue a private club registration permit if the executive director finds that the applicant has failed to comply with any requirement set forth in this subsection.

(4) After notice and hearing the executive director may suspend for a period not exceeding 60 days, or cancel, a private club registration permit if the executive director finds that the holder of the permit, its governing body, or any of its committees, officers, directors, members, agents, servants, or employees has failed to comply with any requirement set forth in this section.

(d) *Who may consume.* As provided in the Alcoholic Beverage Code, §32.01, alcoholic beverages owned by members of a private club may be served only to and consumed only by a member, a member's family, or their guests.

(1) The word "member" shall mean a person who has been admitted to membership as provided in subsection (c) of this section.

(2) The term "member's family" shall mean the spouse, parents, and adult children of the member.

(3) The word "guest" shall mean an individual who is personally known by the member or one of the member's family and who is admitted to the club premises by personal introduction of, or in the physical company of, the member or one of the member's family.

(e) *Food service.* A private club shall provide regular food service adequate for its members and their guests. The term "food service adequate for its members and their guests" shall mean that meals shall be available on the club premises for service to members, their families, and guests. The food service requirement may be fulfilled through the use of a concession or catering agreement with an outside vendor. Prepared food must be available upon request, and must be delivered and served at the licensed premises. Payment for food service must be made to the private club.

(f) *Suspension and cancellation.* After notice and hearing the executive director may suspend for a period not exceeding 60 days, or cancel, a private club registration permit if the executive director finds that the club or any of its members, agents, servants, or employees has:

(1) served, consumed or permitted another person to consume an alcoholic beverage on the premises of the club at any time when the private club registration permit of such club is suspended by an order of the executive director; or

(2) made a false statement or a misrepresentation in any book, record, minutes or report, or other written matter required to be kept or reported by this section or by any provision of the Alcoholic Beverage Code.

(g) Permittees may access electronically readable information on a driver's license, commercial driver's license or identification certificate for the purpose of verifying the accuracy of the records required by this rule. Information so accessed may not be retained longer than is

reasonably necessary to insure verification. The information may not be marketed in any manner. Written consent must be obtained from the club member or prospective member when accessing electronically readable information and proof of such consent must be maintained with the permittee's membership records.

Text of rule showing changes made by amendments:

§41.52. Private Clubs--In General.

(a) *Scope.* This section does not apply to temporary members or to hotel patrons, as described in the Alcoholic Beverage Code, §§32.09, 32.10, and 32.11. In addition, subsection (c)(1)(G) and (H) and subsection (e) of this section do not apply to fraternal organizations or to veterans' organizations.

(b) *Definitions.* The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) *Club* - A private club.

(2) *Member and membership* - a member of and membership in a private club.

(c) *Membership and related topics.*

(1) No private club shall be qualified to hold a private club registration permit unless it shall:

(A) have 50 or more members at all times;

(B) have a membership committee composed of three or more members of the club and vested with authority by charter, by-law or regulation to approve or reject membership applications and terminate existing memberships. The governing body of a club, if qualified under this provision, may be the membership committee, and when functioning as such shall be subject to and governed by all provisions herein relating to the membership committee. When considering a membership application or termination of membership, the membership committee shall keep written minutes showing the meeting date, the names of all committee members present, the name of any person admitted to membership, and the name of any person whose membership was terminated. No minutes shall be required of any discussion or action regarding a membership application which is denied;

(C) have, other than charter members, no members except those approved by at least three members of the membership committee at a meeting of such a committee;

(D) keep a well-bound ~~well-bound~~ book in which is shown the following about each member: the ~~The~~ full name of the member, the member's ~~his~~ initial membership number which shall be issued in sequence, the current complete address of such member, the date such member was admitted to membership, and the date such member was removed from membership. When ~~Provided that~~ ~~when~~ a member has been removed from membership, the ~~his~~ membership number may be reassigned to another member. Additional well-bound ~~Provided further that additional well-bound~~ books may be used if necessary to record the information required by this paragraph, but all such books shall be kept permanently by the club. A ~~Provided further that~~ a club using a computer system ~~business-machine~~ to maintain its membership records shall not be required to keep a well-bound ~~well-bound~~ book if such computer system ~~machine~~ provides the ~~such~~ information as shall be required by the executive director ~~administrator~~, and is approved in writing by the executive director or the executive director's designee ~~administrator~~;

(E) keep all books, records and minutes required herein on the premises of such club, and make them available to any representative of the commission upon reasonable notice;

(F) maintain in force any bond required and executed by a bond executed by: the corporation; as principal, if an incorporated club; or; by an officer of the club; as principal, if an unincorporated club. Such bond shall be executed by a surety company duly authorized and qualified to do business in this state, as surety, in an amount required by rule of the commission payable to the State of Texas conditioned that all fees and taxes owed owned by such club to the State of Texas shall be paid. Such bond shall be in a form approved by the executive director administrator and the attorney general of Texas;

(G) if operating under the locker system, at all times keep all liquor owned by each member under the locker system in a locker located on the premises and rented only to such member, except when the member, one of the member's his family or the member's his guest is present on the premises and using such liquor; and

(H) if operating under the pool system, keep a well-bound well-bound book in which is recorded the following about each member of the pool: the member's His name and membership number, the date and amount of each liquor pool assessment, and the date of payment of the assessment. The information required to be kept in a book by this subparagraph paragraph may be kept in the book required in subparagraph (D) of this paragraph. A Provided that a club using a computer system business machine to bill each member of its liquor pool shall not be required to have such well-bound well-bound book if such computer system machine provides the such information as shall be required by the executive director administrator and is approved by the executive director or the executive director's designee administrator.

(2) No membership shall be terminated except by action of the membership committee or by written resignation of the member. Resignation of any member shall be recorded immediately in the minute book of the membership committee and in the records required by subparagraph paragraph (1)(D) of this paragraph subsection.

(3) The executive director administrator may, after notice and hearing, refuse to issue a private club registration permit if the executive director ~~he~~ finds that the applicant has failed to comply with any requirement set forth in this subsection.

(4) After notice and hearing the executive director administrator may suspend for a period not exceeding 60 days, or cancel, a private club registration permit if the executive director ~~he~~ finds that the holder of the permit, its governing body, or any of its committees, officers, directors, members, agents, servants, or employees has failed to comply with any requirement set forth in this section.

(d) *Who may consume.* As provided in the Alcoholic Beverage Code, §32.01, alcoholic beverages owned by members of a private club may be served only to and consumed only by a member, a member's family, or their guests.

(1) The word "member" shall mean a person who has been admitted to membership as provided in subsection (c) of this section.

(2) The term "member's family" shall mean the spouse, parents, and adult children of the member.

(3) The word "guest" shall mean an individual who is personally known by the member or one of the member's family and who is admitted to the club premises by personal introduction of, or in the physical company of, the member or one of the member's family.

(e) *Food service.* A private club shall provide regular food service adequate for its members and their guests. The term "food service adequate for its members and their guests" shall mean that ~~complete~~ meals shall be available on the club premises for service to members, their families, and guests. The food service requirement may be fulfilled through the use of a concession or catering agreement with an outside vendor. Prepared food must be available upon request, and must be delivered and served at the licensed premises. Payment for food service must be made to the private club.

(f) *Suspension and cancellation.* After notice and hearing the executive director ~~administrator~~ may suspend for a period not exceeding 60 days, or cancel, a private club registration permit if the executive director ~~he~~ finds that the club or any of its members, agents, servants, or employees has:

(1) served, consumed or permitted another person to consume an alcoholic beverage on the premises of the club at any time when the private club registration permit of such club is suspended by an order of the executive director ~~administrator~~; or ~~and~~

(2) made a false statement or a misrepresentation in any book, record, minutes or report, or other written matter required to be kept or reported by this section or by any provision of the Alcoholic Beverage Code.

(g) Permittees may access electronically readable information on a driver's license, commercial driver's license or identification certificate for the purpose of verifying the accuracy of the records required by this rule. Information so accessed may not be retained longer than is reasonably necessary to insure verification. The information may not be marketed in any manner. Written consent must be obtained from the club member or prospective member when accessing electronically readable ~~license~~ information and proof of such consent must be maintained with the permittee's membership records.

March 22, 2016 Commission Meeting
Agenda Item 14: Adopt Repeal of Current Rule §41.54, Destructions

The Texas Alcoholic Beverage Commission adopts the repeal of §41.54, relating to Destructions, without changes to the proposed repeal as published in the February 12, 2016, issue of the *Texas Register* (41 TexReg 1062). No comments were received.

Section 41.54 addresses the procedures to be followed by certain permittees and licensees who wish to obtain a tax exemption or tax credit for alcoholic beverages that are destroyed. The commission reviewed the section pursuant to Government Code §2001.039 and determined that the need for a rule continues to exist but that substantial revisions are necessary. Therefore, the commission repeals the text of this section and in a separate rulemaking replaces it with new text under the same rule number and title.

The repeal is adopted pursuant to Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

TEXT OF CURRENT RULE BEING REPEALED:

§41.54 Destructions.

(a) Each permittee subject to the provisions of the Alcoholic Beverage Code, §§201.03, 201.04, and 201.42 and each licensee subject to the provisions of the Alcoholic Beverage Code, §203.01 shall be entitled to receive an exemption from tax or a tax credit for any alcoholic beverages destroyed in accordance with the provisions stated herein.

(b) In order to qualify for this exemption from tax or a tax credit, the alcoholic beverages to be destroyed must meet the following criteria:

- (1) be in full unopened containers;
- (2) be unsalable or unmarketable;
- (3) have never been claimed for any other type of tax credit or exemption; and
- (4) have never been claimed for a refund of tax.

(c) The beverages, which will be claimed for destruction, must be destroyed in such a manner that the product will be rendered unrecoverable or unfit for human consumption.

(d) Prior to the destruction of the alcoholic beverages, the permittee or licensee must:

(1) notify the nearest authorized representative of the commission of the intent to destroy alcoholic beverages at least three full working days prior to the destruction. This notification must be made in writing on an "Application for Destruction of Alcoholic Beverages" and must contain the following information:

- (A) the account's trade name;
- (B) the account's location address;
- (C) the license or permit number of the licensee or permittee;
- (D) the reason the merchandise is to be destroyed;
- (E) the location at which the destruction will take place;
- (F) the time at which the destruction will take place;
- (G) the method to be used to destroy the alcoholic beverages;
- (H) the type of alcoholic beverages destroyed; and

(I) a listing by brand, quantity, container size, and package size of the destroyed merchandise, if beer or ale and malt liquor are destroyed; or a summary by class of alcoholic beverage, quantity, container size, and wine gallons, if distilled spirits and wine are to be destroyed.

(2) Receive written approval from the nearest authorized representative of the commission to conduct the destruction.

(e) The licensee or permittee must obtain the following documentation for the tax exemption or credit claimed:

(1) A signed written approval for the destruction of the alcoholic beverages from the nearest authorized representative of the commission. This information should be retained in the licensee's or permittee's files and made available upon request for inspection by an authorized representative of the commission.

(2) If distilled spirits and wine are destroyed, a detailed listing by brand, type or class of liquor, and package size of all alcoholic beverages destroyed. This listing may be in the form of an invoice if the invoice provides all required information. The listing should not be submitted with the Monthly Wholesaler's Report but retained by the account for inspection by an authorized representative of the commission upon request.

(3) If the alcoholic beverages were destroyed at a location which charges a fee for this service, the licensee or permittee shall retain a copy of the receipt for payment for this fee and make such available to an authorized representative of the commission upon request.

(4) An affidavit of destruction executed by an employee of the licensee or permittee who witnessed the destruction of the alcoholic beverages. Separate affidavits must be prepared for distilled spirits and wine; ale and malt liquor; and beer. The affidavits should contain the following:

(A) the name and title of the person who witnessed the destruction and is preparing the affidavit;

(B) the date destroyed;

(C) the location where the destruction took place;

(D) how the merchandise was destroyed; and

(E) a copy of the original "Application for Destruction of Alcoholic Beverages".

(f) An original and two copies of the affidavit for destruction should be made and distributed as follows:

(1) The original should be submitted with the monthly report upon which the exemption for the destruction is claimed. If the licensee or permittee is unable to claim the destruction as an exemption on a tax report, they may submit a letter requesting an authorized tax credit. The request along with the destruction affidavit should be submitted to the commission's Austin headquarters.

(2) One copy should be retained in the licensee's or permittee's files and made available upon request for inspection by an authorized representative of the commission.

(3) The second copy should be forwarded to the commission office where the original "Application for Destruction of Alcoholic Beverages" was filed.

(g) The commission may designate an authorized representative to be present during the destruction of the alcoholic beverages.

March 22, 2016 Commission Meeting
Agenda Item 15: Adopt New Rule §41.54, Destructions

The Texas Alcoholic Beverage Commission adopts new §41.54, relating to Destructions, without changes to the proposed text as published in the February 12, 2016, issue of the *Texas Register* (41 TexReg 1063). No comments were received.

Section 41.54 addresses the procedures to be followed by certain permittees and licensees who wish to obtain a tax exemption or tax credit for alcoholic beverages that are destroyed. In a separate rulemaking, the commission reviewed the previous version of this section pursuant to Government Code §2001.039 and determined that the need for a rule continues to exist but that substantial revisions to that version of the rule were necessary. Therefore, in that separate rulemaking the commission has repealed the text of this section as it previously read and in this rulemaking the commission replaces it with new text under the same rule number and title.

Subsection (a) specifies which permittees and licensees are entitled to a tax exemption or tax credit for alcoholic beverages that are destroyed in accordance with the section.

Subsection (b) defines which destructions qualify for a tax exemption or tax credit.

Subsection (c) specifies the timeline to notify the commission prior to a destruction and that an Application for Destruction of Alcoholic Beverages must be used to provide the notice. It also requires that written approval be received before the destruction occurs.

Subsection (d) specifies the documents to be retained after a destruction, including a copy of the Application for Destruction of Alcoholic Beverages signed by an authorized representative of the commission, any receipt for fees charged by the facility where the destruction occurred, and an affidavit of destruction executed by an employee of the permittee or licensee who witnessed the destruction.

Subsection (e) provides that the approved Application for Destruction of Alcoholic Beverages must be submitted with the monthly excise tax report filed with the commission upon which the tax exemption is claimed. If a permittee or licensee is unable to claim the destruction as an exemption on a tax report, the subsection allows the permittee or licensee to submit a letter requesting issuance of an authorized tax credit.

Subsection (f) requires that the permittee or licensee retain a copy of the Application for Destruction of Alcoholic Beverages.

Subsection (g) specifies that the commission may require that the alcoholic beverages designated for destruction be physically inspected by the commission's authorized representative prior to destruction and/or that the actual destruction be witnessed by such a representative.

The amendments are adopted pursuant to Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

TEXT OF NEW RULE BEING ADOPTED:

§41.54. Destructions

(a) Each permittee subject to the provisions of Alcoholic Beverage Code §§201.03, 201.04, or 201.42, and each licensee subject to the provisions of Alcoholic Beverage Code §203.01, shall be entitled to receive a tax exemption or a tax credit for alcoholic beverages destroyed in accordance with the provisions of this section.

(b) To be claimed as a destruction for purposes of receiving a tax exemption or a tax credit, the alcoholic beverages must be destroyed in such a manner that the product is rendered unrecoverable or unfit for human consumption.

(c) Prior to the destruction of alcoholic beverages for which a tax exemption or tax credit is claimed, the permittee or licensee must comply with the requirements of this subsection.

(1) At least three full working days prior to the destruction, the permittee or licensee must notify the nearest authorized representative of the commission of the intent to destroy the alcoholic beverages. This notification must be made in writing on an Application for Destruction of Alcoholic Beverages and contain a complete listing by brand, quantity, container size, and package size of the alcoholic beverages to be destroyed. This requirement for a complete listing may be satisfied by attaching a computerized listing that provides all the required documentation to the Application for Destruction of Alcoholic Beverages.

(2) The permittee or licensee must receive written approval from the nearest authorized representative of the commission to conduct the destruction.

(d) To support a claim for a tax exemption or tax credit for a destruction, the permittee or licensee must retain the documentation referenced in this subsection and make it available to an authorized representative of the commission upon request.

(1) A signed copy of the Application for Destruction of Alcoholic Beverages indicating that it was approved shall be provided to the permittee or licensee by the nearest authorized representative of the commission when the destruction is approved.

(2) If the alcoholic beverages were destroyed at a location which charges a fee for this service, the permittee or licensee shall retain a copy of the receipt for payment of this fee.

(3) An employee of the permittee or licensee who witnessed the destruction of the alcoholic beverages must execute an affidavit of destruction. The affidavit shall include the date of destruction, the destruction location, and a description of how the alcoholic beverages were destroyed. A separate affidavit must be prepared for distilled spirits and wine, for ale and malt liquor, and for beer.

(e) The approved Application for Destruction of Alcoholic Beverages (including any attachments) shall be submitted with the monthly excise tax report filed with the commission upon which the exemption for the destruction is claimed. If the permittee or licensee is unable to claim the destruction as an exemption on a tax report, it may submit a letter to the Commission requesting issuance of an authorized tax credit.

(f) A copy of the approved Application for Destruction of Alcoholic Beverages (including any attachments) should be retained in the permittee's or licensee's files and made available upon request for inspection by an authorized representative of the commission.

(g) The commission may require that the alcoholic beverages designated for destruction be physically inspected and inventoried by a representative of the commission prior to the scheduled destruction and/or that the actual destruction be witnessed by an authorized representative of the commission.

March 22, 2016 Commission Meeting

**Agenda Item 16: Approve Publication of Notice of Proposed Review of Rule §41.20,
Timely Filing of Reports**

The Texas Alcoholic Beverage Commission proposes to review 16 Texas Administrative Code §41.20, Timely Filing of Reports, in accordance with Texas Government Code §2001.039. An assessment will be made by the Commission as to whether the reasons for adopting the rule continue to exist. The review will examine whether the rule is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule reflects current procedures of the Commission.

Comments on the review may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127, or by facsimile transmission to (512) 206-3280. They may also be submitted electronically through the commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the commission will hold a public hearing to receive oral comments on the review on Thursday, April 28, 2016, at 1:30 p.m. in the commission meeting room at the commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

§41.20 Timely Filing of Reports.

With respect to all tax reports required under the Texas Alcoholic Beverage Code, Chapter 201, or this chapter, a person filing a report or making a tax payment complies with the filing requirements for timeliness for a report not filed or a payment not made on time if the person exercised reasonable diligence to comply with the filing requirements and the failure to file or the making of a late payment is not the fault of the person.

March 22, 2016 Commission Meeting
Agenda Item 17: Approve Publication of Notice of Proposed Review of Rule §45.101,
Rebates, Coupons and Premium Stamps

The Texas Alcoholic Beverage Commission proposes to review 16 Texas Administrative Code §45.101, Rebates, Coupons and Premium Stamps, in accordance with Texas Government Code §2001.039. An assessment will be made by the Commission as to whether the reasons for adopting the rule continue to exist. The review will examine whether the rule is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule reflects current procedures of the Commission.

Comments on the review may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127, or by facsimile transmission to (512) 206-3280. They may also be submitted electronically through the commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the commission will hold a public hearing to receive oral comments on the review on Thursday, April 28, 2016, at 1:30 p.m. in the commission meeting room at the commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

§45.101 Rebates, Coupons and Premium Stamps.

(a) It shall be unlawful for the holder of a license or permit to give or offer to give to any person premium stamps or any other type of inducement with the purchase of alcoholic beverages. The term "premium stamp" is hereby declared to include but not be limited to the following: exchange stamps, trade stamps, green stamps, gold stamps, and cash register premium tapes.

(b) No holder of a manufacturing, wholesale, or retail level license or permit may give any rebate or coupon redeemable by the public for the purchase of or for a discount on the purchase of any alcoholic beverage.

(c) No holder of a manufacturing, wholesale, or retail level license or permit may offer or give away with or without the purchase of any alcoholic beverage, a coupon redeemable for a rebate, cents-off or for any free non-alcoholic beverage item or product. A retailer, manufacturer, or wholesaler may, however, offer a discount, rebate, or cents-off coupon on any non-alcohol product except non-alcohol malt beverages and wines that he sells if it does not require the purchase of any alcoholic beverage.

(d) None of the above prohibits any retailer from offering a complimentary drink or drink discount as part of a meal package, a hotel package or any airline frequent flier program or in conjunction with any airline ticket purchase, provided, however, that no discount or complimentary beverage shall be brand identified or redeemed by a wholesaler or manufacturer.

March 22, 2016 Commission Meeting

Agenda Item 18: Approve Publication of Proposed Repeal of Rule §41.29, Bonded Warehouse Breakage

The Texas Alcoholic Beverage Commission proposes the repeal of §41.29, relating to Bonded Warehouse Breakage.

Section 41.29 addresses the requirement that bonded warehouses must store liquor in full and unbroken case lots, as well as well as procedures to be followed in the event of actual breakage of stored liquor.

The commission has reviewed the section pursuant to Government Code §2001.039 and has determined that the need for a rule addressing these issues continues to exist but that they are more appropriately addressed elsewhere. Therefore, the commission is proposing to repeal the text of this section and to address the issues in its proposed amendments to §41.39, relating to Warehouse Report.

Martin Wilson, Assistant General Counsel, has determined that for each year of the first five years that the proposed repeal will be in effect, there will be no fiscal impact on state or local government.

The proposed repeal will have no fiscal or regulatory impact on micro-businesses and small businesses or persons regulated by the commission. There is no anticipated negative impact on local employment.

Mr. Wilson has determined that for each year of the first five years that the proposed repeal will be in effect, the public will benefit because regulations relating to bonded warehouses will be consolidated and easier for the public to access.

Comments on the proposed repeal may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127, or by facsimile transmission to (512) 206-3280. They may also be submitted electronically through the commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the commission will hold a public hearing to receive oral comments on the proposed repeal on Thursday, April 28, 2016 at 1:30 p.m. in the commission meeting room at the commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

The proposed repeal is authorized by Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The proposed repeal affects Alcoholic Beverage Code §5.31 and Government Code §2001.039.

TEXT OF CURRENT RULE TO BE REPEALED:

§41.29 Bonded Warehouse Breakage.

(a) No holder of a bonded warehouse permit shall store or offer to store any liquor unless the same be in full and unbroken case lots.

(b) No holder of a bonded warehouse permit shall permit the withdrawal of any liquor unless the same be in full and unbroken case lots; provided, however, that where actual breakage occurs in a bonded warehouse which results in actual loss, the holder of a bonded warehouse permit shall allow such withdrawal when affidavits in duplicate are made by the holder of the bonded warehouse permit showing actual breakage in a case or cases.

(c) One such affidavit shall be kept on file by the holder of the bonded warehouse permit and be subject to inspection by the representative of the commission, and the other affidavit shall be attached to his daily report (Warehouse Report) forwarded to the Austin office of the commission.

March 22, 2016 Commission Meeting

Agenda Item 19: Approve Publication of Proposed Amendments to Rule §41.39, Warehouse Report

The Texas Alcoholic Beverage Commission proposes amendments to §41.39, relating to Warehouse Report.

Section 41.39 addresses reporting requirements for holders of Bonded Warehouse Permits under Chapter 46 of the Alcoholic Beverage Code.

Under the proposed amendments, reports would be required monthly, instead of within 24 hours of receipt or withdrawal of liquor from the warehouse. The proposed amendments also would incorporate the requirement (currently found in §41.29) that bonded warehouses must store liquor in full and unbroken case lots, as well as well as the procedures currently found in §41.29 to be followed in the event of actual breakage of stored liquor. The commission is proposing to repeal the text of §41.29 in a separate rulemaking proceeding.

Proposed paragraph (b)(4) adds a new requirement that the holder of a Bonded Warehouse Permit affirm on the monthly report that the permittee is in compliance with Alcoholic Beverage Code §46.03, which requires the holder of a Bonded Warehouse Permit to derive at least 50 percent of its gross revenue in a bona fide manner during each three month period from the storage of goods or merchandise other than liquor. Although the affirmation on the monthly report would be a new requirement under the proposed amendments, the underlying obligation to remain in compliance with Alcoholic Beverage Code §46.03 is not new. The commission believes that the monthly affirmation will be a useful reminder to permit holders of their obligation to maintain the required balance of stored items and that Chapter 46 of the Alcoholic Beverage Code does not authorize liquor-only warehouses.

Section 41.39 is also being reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for readoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

Martin Wilson, Assistant General Counsel, has determined that for each year of the first five years that the proposed amendments will be in effect, there will be no fiscal impact on local government attributable to the amendments. There should be no fiscal impact on state government.

The proposed amendments will have no fiscal or regulatory impact on micro-businesses and small businesses or persons regulated by the commission. There is no anticipated negative impact on local employment.

Mr. Wilson has determined that for each year of the first five years that the proposed amendments will be in effect, the public will benefit because regulations relating to bonded warehouses will be consolidated and easier for the public to access, and compliance with Chapter 46 of the Alcoholic Beverage Code will be easier to monitor.

Comments on the proposed amendments may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127, or by

facsimile transmission to (512) 206-3280. They may also be submitted electronically through the commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the commission will hold a public hearing to receive oral comments on the proposed amendments on Thursday, April 28, 2016 at 1:30 p.m. in the commission meeting room at the commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

The proposed amendments are authorized by Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The proposed amendments affect Alcoholic Beverage Code §5.31 and Government Code §2001.039.

Text of rule showing proposed amendments:

§41.39 Bonded Warehouse Report.

(a) Each holder of a bonded warehouse permit shall make a monthly daily report (Warehouse Report) to the commission on forms prescribed by the executive director administrator.

(b) The report shall be made and filed by the permittee with the commission at its offices in at Austin, Texas, ~~within 24 hours after the receipt of withdrawal of any liquor; provided that no report shall be required for any calendar day during which no liquor is received into or withdrawn from such bonded warehouse.~~ The report shall show:

(1) state the name, address, and permit number of the warehouse;

(2) show the name, address, storage permit number, and class of permit of each customer storing liquor;

(3) ~~units in case lots;~~

(4) show monthly daily opening inventory receipts, withdrawals and closing inventory in gallons for each class of liquor, ~~supported by itemized receiving tallies and itemized release orders;~~ and

(4) (5) affirm that the permittee is in compliance with Alcoholic Beverage Code §46.03, which requires the holder of a bonded warehouse permit to derive at least 50 percent of its gross revenue in a bona fide manner during each three month period from the storage of goods or merchandise other than liquor. ~~the same information for liquor, wines 14% alcohol by volume and under, wines over 14% alcohol by volume and not more than 24% alcohol by volume, wines natural and carbonated and malt liquor.~~

(c) Such reports shall be signed by the custodian of the bonded warehouse and filed with the commission on or before the 15th day of the month following the calendar month for which the report is made daily.

(d) A holder of a bonded warehouse permit may only store or offer to store liquor in full and unbroken case lots. ~~The report for the closing day of each calendar month shall reflect the exact physical inventory of liquor in storage for each permittee and shall be sworn to and acknowledged. A separate report shall be made for each permittee who stores merchandise in the bonded warehouse.~~

(e) Except as provided in this subsection, a holder of a bonded warehouse permit may only allow the withdrawal of liquor in full and unbroken case lots. When actual breakage occurs in a bonded warehouse which results in actual loss, the holder of a bonded warehouse permit may allow withdrawal in partial or broken case lots if the bonded warehouse permit holder executes duplicate affidavits documenting the actual breakage. One such affidavit shall be retained on file by the bonded warehouse permit holder, and the other affidavit shall be submitted with the permittee's monthly report required by this section. Entries on this report shall be made on the date that merchandise is received or withdrawn and shall be kept up to

~~date so that it can be checked by any authorized representatives of the commission at any time during reasonable office hours.~~

Text of rule if the proposed amendments were to be adopted without change (after publication in the *Texas Register* and subsequent comment):

§41.39 Bonded Warehouse Report.

(a) Each holder of a bonded warehouse permit shall make a monthly report to the commission on forms prescribed by the executive director.

(b) The report shall be made and filed by the permittee with the commission at its offices in at Austin, Texas. The report shall:

- (1) state the name, address, and permit number of the warehouse;
- (2) show the name, address, storage permit number, and class of permit of each customer storing liquor;
- (3) show monthly opening inventory receipts, withdrawals and closing inventory in gallons for each class of liquor; and
- (4) affirm that the permittee is in compliance with Alcoholic Beverage Code §46.03, which requires the holder of a bonded warehouse permit to derive at least 50 percent of its gross revenue in a bona fide manner during each three month period from the storage of goods or merchandise other than liquor.

(c) Such reports shall be signed by the custodian of the bonded warehouse and filed with the commission on or before the 15th day of the month following the calendar month for which the report is made.

(d) A holder of a bonded warehouse permit may only store or offer to store liquor in full and unbroken case lots.

(e) Except as provided in this subsection, a holder of a bonded warehouse permit may only allow the withdrawal of liquor in full and unbroken case lots. When actual breakage occurs in a bonded warehouse which results in actual loss, the holder of a bonded warehouse permit may allow withdrawal in partial or broken case lots if the bonded warehouse permit holder executes duplicate affidavits documenting the actual breakage. One such affidavit shall be retained on file by the bonded warehouse permit holder, and the other affidavit shall be submitted with the permittee's monthly report required by this section.

March 22, 2016 Commission Meeting

Agenda Item 20: Approve Publication of Proposed Repeal of Rule §41.37, Industrial Alcohol Report

The Texas Alcoholic Beverage Commission proposes the repeal of §41.37, relating to Industrial Alcohol Report.

Section 41.37 addresses the monthly reporting requirement for holders of Industrial Permits under Chapter 38 of the Alcoholic Beverage Code.

The commission has reviewed the section pursuant to Government Code §2001.039 and has determined that the need for a rule addressing this reporting requirement continues to exist but that it is more appropriately addressed elsewhere. Therefore, the commission is proposing to repeal the text of this section and to address the reporting requirement in its proposed amendments to §41.21, relating to Industrial Permits.

Martin Wilson, Assistant General Counsel, has determined that for each year of the first five years that the proposed repeal will be in effect, there will be no fiscal impact on state or local government.

The proposed repeal will have no fiscal or regulatory impact on micro-businesses and small businesses or persons regulated by the commission. There is no anticipated negative impact on local employment.

Mr. Wilson has determined that for each year of the first five years that the proposed repeal will be in effect, the public will benefit because regulations relating to Industrial Permits will be consolidated and easier for the public to access.

Comments on the proposed repeal may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127, or by facsimile transmission to (512) 206-3280. They may also be submitted electronically through the commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the commission will hold a public hearing to receive oral comments on the proposed repeal on Thursday, April 28, 2016 at 1:30 p.m. in the commission meeting room at the commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

The proposed repeal is authorized by Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The proposed repeal affects Alcoholic Beverage Code §5.31 and Government Code §2001.039.

TEXT OF CURRENT RULE TO BE REPEALED:

§41.37 Industrial Alcohol Report.

(a) Each holder of an industrial permit as provided in §38.01 *et seq.*, of the Alcoholic Beverage Code shall make a monthly report (Industrial Alcohol Report) to the commission on forms prescribed by the administrator.

(b) The report shall be made and filed by the permittee with the commission at its offices at Austin, Texas, on or before the 15th day of the month following the calendar month for which the report is made and shall show:

- (1) a full and complete record of all alcohol, except denatured alcohol produced and received by the permittee during the month for which the report is made;
- (2) the date the alcohol was received;
- (3) the date and number of the invoice;
- (4) from whom the alcohol was received;
- (5) point of origin of shipment;
- (6) the quantity of alcohol received in wine gallons;
- (7) total wine gallons of alcohol on hand the first of month;
- (8) total wine gallons of alcohol purchased during the month;
- (9) total wine gallons of alcohol produced during the month;
- (10) total wine gallons of alcohol unaccounted for;
- (11) total wine gallons of alcohol to account for;
- (12) total wine gallons of alcohol used during the month;
- (13) total wine gallons of alcohol shipped during the month;
- (14) total wine gallons on hand at end of the month;
- (15) total wine gallons of alcohol unaccounted for; and
- (16) total wine gallons of alcohol accounted for.

March 22, 2016 Commission Meeting

Agenda Item 21: Approve Publication of Proposed Amendments to Rule §41.21, Industrial Permits

The Texas Alcoholic Beverage Commission proposes amendments to §41.21, relating to Industrial Permits.

Section 41.21 currently specifically addresses reporting requirements for holders of Industrial Permits under Chapter 38 of the Alcoholic Beverage Code. The proposed amendments would also include reporting requirements for holders of Local Industrial Alcohol Manufacturer's Permits under Chapter 47 of the Alcoholic Beverage Code, and record-keeping requirements for both types of permit holders.

The proposed amendments do not change the current requirement that the monthly report shall be on a form prescribed by the executive director, but delete the current list of items that must be included on the report. Proposed paragraph (b)(3) clarifies that the required reports must account for all types of alcohol except denatured alcohol.

Proposed subsection (c) provides that holders of Industrial Permits and of local Industrial Alcohol Manufacturer's Permits shall maintain records of daily operations and make such records available to the commission upon request.

Section 41.21 is also being reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for readoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

Martin Wilson, Assistant General Counsel, has determined that for each year of the first five years that the proposed amendments will be in effect, there will be no fiscal impact on local government attributable to the amendments. There should be no fiscal impact on state government.

The proposed amendments will have no fiscal or regulatory impact on micro-businesses and small businesses or persons regulated by the commission. There is no anticipated negative impact on local employment.

Mr. Wilson has determined that for each year of the first five years that the proposed amendments will be in effect, the public will benefit because reporting and record keeping requirements relating to Industrial Permits and Local Industrial Alcohol Manufacturer's Permits will be clearer.

Comments on the proposed amendments may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127, or by facsimile transmission to (512) 206-3280. They may also be submitted electronically through the commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the commission will hold a public hearing to receive oral comments on the proposed amendments on Thursday, April 28, 2016 at 1:30 p.m. in the commission meeting room at the commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

The proposed amendments are authorized by Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The proposed amendments affect Alcoholic Beverage Code §5.31 and Government Code §2001.039.

Text of rule showing proposed amendments:

§41.21 Industrial Permits and Local Industrial Alcohol Manufacturer's Permits.

(a) Purchase and sale.

(1) Holders of industrial permits may purchase or otherwise acquire ~~alcohol wine and vinous liquor in containers of not less than one gallon without payment of state tax from the holders of licenses or permits who are authorized to sell to them, provided that the alcohol so acquired in Texas, authorizing the manufacture or importation of wines, subject to restrictions herein provided and conditioned that such wine and vinous liquor shall be used for no purpose other than the compounding or manufacture of medicines and food products.~~

(2) Holders of ~~local industrial alcohol manufacturer's class A winery permits may engage in the activities authorized in Alcoholic Beverage Code §47.01, class B winery permits, wholesaler's permits, class B wholesaler's permits and wine bottler's permits may sell to the holders of industrial permits wine and vinous liquor in containers of not less than one gallon without payment of state tax and subject to restrictions herein provided.~~

(b) ~~Reports~~ *Report receiving.*

(1) Each holder of an industrial permit ~~and each holder of a local industrial alcohol manufacturer's permit~~ shall make a monthly report to the commission on a form prescribed by the ~~executive director administrator (Industrial Receiving Record Wine).~~

(2) The report shall be made and filed by the permittee with the commission at its office in Austin, Texas, on or before the 15th day of the month following the calendar month for which the report is made, ~~and shall show the following:~~

- ~~(A) A full and complete record of all wine and vinous liquors received or possessed.~~
- ~~(B) The date received.~~
- ~~(C) From whom received.~~
- ~~(D) Point of origin of the shipment.~~
- ~~(E) Date of invoice.~~
- ~~(F) Seller's invoice number.~~
- ~~(G) Total number and size of containers received.~~
- ~~(H) The total amount in wine gallons of wine containing not more than 14% alcohol by volume.~~
- ~~(I) The same information in regard to wine received containing over 14% alcohol by volume and not more than 24% of alcohol by volume.~~
- ~~(J) The name of the carrier making delivery.~~

(3) The reports required by this section shall account for all types of alcohol except denatured alcohol. Entries shall be made on this report within 24 hours after the date any wine is received or becomes the property of the permittee at any point within the State of Texas.

~~(4) The permittee shall give all information required to be reported on the prescribed form and the report shall be signed and sworn to by the permittee or his duly authorized representative before a notary public or other officer authorized to administer oaths.~~

(c) Records. Report manufacturing.

Each holder of an industrial permit and each holder of a local industrial alcohol manufacturer's permit shall maintain a separate record for each day's operation showing the date of operation, the opening and closing inventory of each type of alcohol, and the total gallons manufactured, purchased, sold and used. This record and related invoices and shipping documents shall be made available to a representative of the commission upon request.

~~(1) Each holder of an industrial permit shall make a monthly report to the commission on a form prescribed by the administrator (Industrial Manufacturing Report).~~

~~(2) The report shall be made and filed by the permittee with the commission at its offices in Austin, Texas, on or before the 15th day of the month following the calendar month for which the report is made and shall show:~~

~~(A) a full and complete record of all wine and vinous liquor received and used in the compounding or manufacture of medicines or food products during the month for which such report is made;~~

~~(B) the date of each day's operation;~~

~~(C) the opening inventory in wine gallons;~~

~~(D) receipts in wine gallons;~~

~~(E) wine gallons used in the compounding or manufacture of medicines or food products;~~

~~(F) closing inventory in wine gallons;~~

~~(G) total packages of resultant products, stating number and size of packages; that is, in case of bottles, fluid content; in case of packages, ounces or pounds and ounces;~~

~~(H) name of product manufactured; and~~

~~(I) the same information to be reported separately on wines in each tax classification.~~

~~(3) On the closing day of the month for which the report is made an actual physical inventory shall be made of all wine on hand and results posted on the form directly below the figures shown on the closing day of the month, all wine to be considered as wine on hand until the product is packaged.~~

~~(4) Entries shall be made on this report within 48 hours after the date that any such wines are received or packaged.~~

~~(5) The permittee shall give all information required to be reported on the form and the report shall be signed and sworn to by the permittee or his duly authorized representative before a notary public or other officer authorized to administer oaths.~~

~~(d) Report not required. Holders of industrial permits who do not purchase or handle wine or vinous liquors in any way shall not be required to make the reports herein required.~~

Text of rule if the proposed amendments were to be adopted without change (after publication in the *Texas Register* and subsequent comment):

§41.21 Industrial Permits and Local Industrial Alcohol Manufacturer's Permits.

(a) Purchase and sale.

(1) Holders of industrial permits may purchase or otherwise acquire alcohol without payment of state tax from the holders of licenses or permits who are authorized to sell to them, provided that the alcohol so acquired shall be used for no purpose other than the compounding or manufacture of medicines and food products.

(2) Holders of local industrial alcohol manufacturer's permits may engage in the activities authorized in Alcoholic Beverage Code §47.01.

(b) Reports.

(1) Each holder of an industrial permit and each holder of a local industrial alcohol manufacturer's permit shall make a monthly report to the commission on a form prescribed by the executive director.

(2) The report shall be made and filed by the permittee with the commission at its office in Austin, Texas, on or before the 15th day of the month following the calendar month for which the report is made.

(3) The reports required by this section shall account for all types of alcohol except denatured alcohol.

(c) Records.

Each holder of an industrial permit and each holder of a local industrial alcohol manufacturer's permit shall maintain a separate record for each day's operation showing the date of operation, the opening and closing inventory of each type of alcohol, and the total gallons manufactured, purchased, sold and used. This record and related invoices and shipping documents shall be made available to a representative of the commission upon request.

March 22, 2016 Commission Meeting

Agenda Item 22: Approve Publication of Proposed Amendments to Rule §35.5, Private Carrier's Permit Safety Program

The Texas Alcoholic Beverage Commission proposes amendments to §35.5, relating to Private Carrier's Permit safety Program.

Section 35.5 addresses insurance requirements for holders of Private Carrier Permits under Chapter 42 of the Alcoholic Beverage Code.

When §35.5 was originally adopted in 1996, the commission's intent was for it to qualify as a "comparable registration and safety program" under the provisions of Texas Civil Statutes Article 6676(c), §2(3) then in effect. The consequence of such a qualification was to release affected permittees from the obligation of complying with overlapping regulation by the commission and by the Texas Department of Transportation. See the *Texas Register* issue of August 16, 1996 (21 TexReg 7729).

Today, Transportation Code §643.002(5) simply exempts a vehicle operating under a Private Carrier Permit from the requirements of Chapter 643 of the Transportation Code, relating to Motor Carrier Registration. Thus, it is unnecessary for the rule to have details demonstrating that it is comparable to the motor carrier registration and safety requirements now administered by the Texas Department of Motor Vehicles. Therefore, the proposed amendments would delete much of the specificity in the current rule regarding coverage while maintaining the core requirement that private carriers maintain a \$500,000 liability insurance policy to cover bodily injury and property damage.

Although strict comparability with Texas Department of Motor Vehicle requirements is no longer necessary, it is the commission's intent to impose a similar basic insurance requirement on private carriers as that imposed by the Texas Department of Motor Vehicles on others who transport alcoholic beverages. In that regard, proposed subsection (a) would exempt from coverage vehicles below a certain weight, which is consistent with Texas Department of Motor Vehicles regulation of other types of carriers.

In lieu of the requirement currently in subsection (a) that the Private Carrier Permit holder shall file proof of insurance with the commission, proposed subsection (c) would require the permit holder to file an affidavit that it is in compliance with the requirements for insurance coverage in this section.

Section 35.5 is also being reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for readoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

Martin Wilson, Assistant General Counsel, has determined that for each year of the first five years that the proposed amendments will be in effect, there will be no fiscal impact on local government attributable to the amendments. There should be no fiscal impact on state government.

The proposed amendments will have no fiscal or regulatory impact on micro-businesses and small businesses or persons regulated by the commission. There is no anticipated negative impact on local employment.

Mr. Wilson has determined that for each year of the first five years that the proposed amendments will be in effect, the public will benefit because the requirements for private carrier liability insurance will be easier to understand.

Comments on the proposed amendments may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127, or by facsimile transmission to (512) 206-3280. They may also be submitted electronically through the commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the commission will hold a public hearing to receive oral comments on the proposed amendments on Thursday, April 28, 2016 at 1:30 p.m. in the commission meeting room at the commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

The proposed amendments are authorized by Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The proposed amendments affect Alcoholic Beverage Code §5.31 and Government Code §2001.039.

Text of rule showing proposed amendments:

§35.5 Private Carrier ~~Carrier's~~ Permit ~~Safety Program~~ Requirements.

(a) Each holder of a private carrier ~~carrier's~~ permit shall carry at least \$500,000 of liability insurance for bodily injury and property damage covering every registered vehicle whose gross weight, registered weight or gross-weight rating exceeds 26,000 pounds, and file proof of insurance with the commission for each vehicle registered. ~~Such insurance must be sufficient to pay, not more than the amount of the insurance, for each final judgment against the permit holder (combined single limit) for bodily injury to or death of an individual per occurrence, and loss or damage to property (excluding cargo) per occurrence, or both.~~

(b) Each holder of a private carrier ~~carrier's~~ permit shall maintain proof of insurance in their permitted vehicles at all times. ~~This proof shall be in the form prescribed by the commission and the Texas Department of Insurance in coordination with the Texas Department of Public Safety.~~

~~———— (1) ———— No insurance policy or certificate of insurance will be accepted by the commission unless issued by an insurance or surety company licensed and authorized to do business in the State of Texas. The commission adopts Department of Insurance "Form E" (Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate) and "Form K" (Uniform Notice of Cancellation of Motor Carrier Insurance Policies) for the purposes of this section (which forms have been prescribed and approved by the Department of Insurance). These forms must be filed with the commission and signed or countersigned by an authorized agent of the insurance or surety company. The commission will accept a certificate of insurance issued by a surplus lines insurer that meets the requirements of Insurance Code, Article 1.14-2 and rules adopted by the Department of Insurance under that article.~~

~~———— (2) ———— If the insurer or surety of a permittee subject to this rule becomes insolvent or becomes involved in a receivership or other insolvency proceeding, the permittee may apply for approval of a surety bond or insurance policy issued by another surety or insurer upon filing an affidavit with the commission. Such affidavit shall be executed by the permittee and show that:~~

~~———— (A) ———— no accidents or claims have occurred during the insolvency of the insurance carrier or surety; and~~

~~———— (B) ———— that all damages and claims have been satisfied; and~~

~~———— (C) ———— the commission shall notify the Texas Department of Public Safety of each notice received under this subsection.~~

(c) Each holder of a private carrier ~~carrier's~~ permit shall file with the commission complete an affidavit stating that the permittee has knowledge of, and will conduct operations in accordance with, all federal and state safety regulations, and that it is in compliance with the requirements for insurance coverage under this section.

(d) Private carrier permits are subject to the same protest and complaint policies as other permits. The Department of Public Safety may request that the commission suspend or cancel a private carrier's permit if a permittee:

~~———— (1) ———— has an unsatisfactory safety rating under 49 Code of Federal Regulations, Part 385; or~~

~~———— (2) ———— has multiple violations of a provision of Texas Civil Statutes, Article 6675d, a rule adopted under that article or the Uniform Act Regulating Traffic on Highways (Texas Civil Statutes, Article 6701d). A request for suspension or revocation under this subsection shall be submitted in writing by the executive director of the Texas Department of Public Safety, and shall include appropriate documentation evidencing the violation. The commission or administrator may suspend or cancel an original or renewal permit in response to such a request, after notice and hearing under the Alcoholic Beverage Code and the rules of the commission, pursuant to Alcoholic Beverage Code, §11.61(b)(7).~~

Text of rule if the proposed amendments were to be adopted without change (after publication in the *Texas Register* and subsequent comment):

§35.5 Private Carrier Permit Requirements.

(a) Each holder of a private carrier permit shall carry at least \$500,000 of liability insurance for bodily injury and property damage covering every registered vehicle whose gross weight, registered weight or gross-weight rating exceeds 26,000 pounds.

(b) Each holder of a private carrier permit shall maintain proof of insurance in their permitted vehicles at all times.

(c) Each holder of a private carrier permit shall file with the commission an affidavit stating that the permittee has knowledge of, and will conduct operations in accordance with, all federal and state safety regulations, and that it is in compliance with the requirements for insurance coverage under this section.

(d) Private carrier permits are subject to the same protest and complaint policies as other permits.

March 22, 2016 Commission Meeting

Agenda Item 23: Approve Publication of Proposed Amendments to Rule §41.25, Records to be Kept Separate

The Texas Alcoholic Beverage Commission proposes amendments to §41.25, relating to Records to be Kept Separate.

Section 41.25: requires alcoholic beverage invoices to have the exact trade names of issuing and receiving permittees or licensees; requires permittees or licensees owning more than one business operating under separate permits or licenses, or a single business operating at two or more locations, to keep separate records for each business or place of business; requires permittees and licensees who are also engaged in any other kind of business to keep separate records for the alcoholic beverage business; requires permittees and licensees to keep records for two years, and make them available for inspection by the commission during reasonable office hours; and provides that making a false entry or alteration in records is a violation of the section.

The proposed amendments change the wording but not the substance of the section. The title would be changed to reflect that the rule addresses topics other than keeping records separate. Proposed subsection (d) clarifies that the two-year record retention requirement applies unless the Alcoholic Beverage Code or some other rule provides otherwise.

Section 41.25 is also being reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for readoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

Martin Wilson, Assistant General Counsel, has determined that for each year of the first five years that the proposed amendments will be in effect, there will be no fiscal impact on local government attributable to the amendments. There should be no fiscal impact on state government.

The proposed amendments will have no fiscal or regulatory impact on micro-businesses and small businesses or persons regulated by the commission. There is no anticipated negative impact on local employment.

Mr. Wilson has determined that for each year of the first five years that the proposed amendments will be in effect, the public will benefit because the requirements of the rule will be stated affirmatively and clearly.

Comments on the proposed amendments may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127, or by facsimile transmission to (512) 206-3280. They may also be submitted electronically through the commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the commission will hold a public hearing to receive oral comments on the proposed amendments on Thursday, April 28, 2016 at 1:30 p.m. in the commission meeting room at the commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

The proposed amendments are authorized by Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The proposed amendments affect Alcoholic Beverage Code §5.31 and Government Code §2001.039.

Text of rule showing proposed amendments:

§41.25 Records and Invoice Requirements ~~To Be Kept Separate.~~

(a) ~~An~~ It shall be unlawful for any permittee or licensee to issue or receive an invoice that is required by the Alcoholic Beverage Code or by rule for any alcoholic beverage must have wherein an invoice is required by law or by a rule of the commission unless the same bears the exact trade name of the issuing permittee or licensee and the receiving permittee or licensee, if any.

(b) A permittee or licensee ~~It shall be unlawful for any person~~ who owns more than one business operating under separate permits or licenses or a single business operating at two or more locations under separate permits or licenses shall ~~to fail to~~ keep separate records for each such business or place of business.

(c) Each permittee and licensee who is also engaged in any other kind of business shall make and keep all records for the alcoholic beverage business that are required by the Alcoholic Beverage Code or by rule ~~for his alcoholic beverage business~~ separate and apart from any and all other records.

(d) All ~~such~~ records that are required by the Alcoholic Beverage Code or by rule shall be kept for a period of at least two years, unless a different period is specified in the Alcoholic Beverage Code or in some other rule, and shall be kept open for inspection by the commission or its authorized representatives during reasonable office hours.

(e) Making a ~~If any~~ false entry or any alteration ~~whatever is made~~ in said records that are required by the Alcoholic Beverage Code or by rule ~~is same shall be~~ a violation of this section.

Text of rule if the proposed amendments were to be adopted without change (after publication in the *Texas Register* and subsequent comment):

§41.25 Records and Invoice Requirements.

(a) An invoice that is required by the Alcoholic Beverage Code or by rule for any alcoholic beverage must have the exact trade name of the issuing permittee or licensee and the receiving permittee or licensee, if any.

(b) A permittee or licensee who owns more than one business operating under separate permits or licenses or a single business operating at two or more locations under separate permits or licenses shall keep separate records for each such business or place of business.

(c) Each permittee and licensee who is also engaged in any other kind of business shall make and keep all records for the alcoholic beverage business that are required by the Alcoholic Beverage Code or by rule separate and apart from any and all other records.

(d) All records that are required by the Alcoholic Beverage Code or by rule shall be kept for a period of at least two years, unless a different period is specified in the Alcoholic Beverage

Code or in some other rule, and shall be kept open for inspection by the commission or its authorized representatives during reasonable office hours.

(e) Making a false entry or any alteration in records that are required by the Alcoholic Beverage Code or by rule is a violation of this section.

March 22, 2016 Commission Meeting

Agenda Item 24: Approve Publication of Proposed Amendments to Rule §41.27, Tax Credit – Wine Processing

The Texas Alcoholic Beverage Commission proposes amendments to §41.27, relating to Tax Credit – Wine Processing.

Section 41.27 currently addresses the procedures for claiming a tax credit by holders of Wine Bottler's Permits under Chapter 18 of the Alcoholic Beverage Code or Winery Permits under Chapter 16 of the Alcoholic Beverage Code. Other sections of the commission's rules set forth the procedures for claiming a tax credit that are generally applicable to permittees and licensees and it is not necessary to have a separate rule prescribing different procedures for wine bottlers and wineries. Therefore, the proposed amendments would delete the tax credit provisions of the current rule.

With some changes to the language but not the substance, the remaining provisions of current §41.27 would be carried forward in the proposed amendments. The substance of current subsection (d) would become subsection (a). The substance of current subsection (e) would become subsection (b). The substance of current subsection (f) would become subsection (c).

Section 41.27 is also being reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for readoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

Martin Wilson, Assistant General Counsel, has determined that for each year of the first five years that the proposed amendments will be in effect, there will be no fiscal impact on local government attributable to the amendments. There should be no fiscal impact on state government.

The proposed amendments will have no fiscal or regulatory impact on micro-businesses and small businesses or persons regulated by the commission. There is no anticipated negative impact on local employment.

Mr. Wilson has determined that for each year of the first five years that the proposed amendments will be in effect, the public will benefit because the requirements of the rule will be stated affirmatively and clearly, and tax credit procedures for wine bottlers and wineries will be the same as those for other alcoholic beverage permittees and licensees.

Comments on the proposed amendments may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127, or by facsimile transmission to (512) 206-3280. They may also be submitted electronically through the commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the commission will hold a public hearing to receive oral comments on the proposed amendments on Thursday, April 28, 2016 at 1:30 p.m. in the commission meeting room at the commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

The proposed amendments are authorized by Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The proposed amendments affect Alcoholic Beverage Code §5.31 and Government Code §2001.039.

Text of rule showing proposed amendments:

§41.27 ~~Tax Credit~~—Wine Processing.

(a) A holder of a wine bottler's permit may only bottle wine that it owns. A holder of a winery permit may only bottle wine that it manufactures or blends. ~~A holder of a wine bottler's or winery permit who possesses wine on which the state excise tax has been paid and which is to be refiltered, reconditioned, or destroyed and who desires to be reimbursed for the state tax may notify the district supervisor of the commission. The district supervisor shall assign one or more inspectors to make an inventory of the amount of wine to be reconditioned, refiltered, or destroyed.~~

(b) A holder of a wine bottler's permit or a holder of a winery permit may not bottle or rebottle wine from a container of less than five gallons. ~~The inventory report shall be executed in quadruplicate on a form furnished by the commission. Such form shall show: date; number and size of containers; trade name of permittee; permit number; class of permit; address and amount of tax paid on such wine. The report shall be signed and sworn to before a notary public or other officer authorized to administer oaths by the said permittee or his authorized representative. The *de facto* original and two other originals shall be sent by the inspector to the administrator and the fourth original given the permittee and retained by him in his permanent file for a period of two years.~~

(c) A holder of a wine bottler's permit or a holder of a winery permit, or any agent, servant or employee of either, may not possess on the premises any wine in containers of less than five gallons except for the purpose of lawful sale. ~~The inventory shall be construed to be a request by the permittee for tax credit. If the administrator approves the request, he shall notify the permittee in writing. After receiving such written notice, the permittee may, on his next succeeding payment of the state excise tax on wine, deduct from his remittance any tax credit then existing on the account. If the administrator refuses the request in whole or in part he shall notify the permittee in writing and shall state therein the reason therefor.~~

(d) ~~No holder of a wine bottler's permit shall bottle any wine other than that which is owned by him. No holder of a class A or class B winery permit shall bottle any wine other than that which is manufactured or blended by such permittee.~~

~~(e) It shall be unlawful for any holder of a wine bottler's permit or winery permit to bottle or rebottle wine from a container of less than five gallons.~~

~~(f) It shall be unlawful for the holder of a wine bottler's permit or winery permit, or any agent, servant or employee to have in his possession any wine, in containers of less than five gallons except for the purpose of lawful sale.~~

Text of rule if the proposed amendments were to be adopted without change (after publication in the *Texas Register* and subsequent comment):

§41.27 Wine Processing.

- (a) A holder of a wine bottler's permit may only bottle wine that it owns. A holder of a winery permit may only bottle wine that it manufactures or blends.
- (b) A holder of a wine bottler's permit or a holder of a winery permit may not bottle or rebottle wine from a container of less than five gallons.
- (c) A holder of a wine bottler's permit or a holder of a winery permit, or any agent, servant or employee of either, may not possess on the premises any wine in containers of less than five gallons except for the purpose of lawful sale.

March 22, 2016 Commission Meeting

Agenda Item 25: Approve Publication of Proposed Amendments to Rule §41.31, Tax

The Texas Alcoholic Beverage Commission proposes amendments to §41.31, relating to Tax.

Section 41.31 currently addresses taxes due from importers of distilled spirits and wine, and from manufacturers or importers of ale and malt liquor. The proposed amendments would address the excise taxes due from manufacturers, wholesalers and distributors on the first sale of all alcoholic beverages, including the due date for the taxes and the appropriate references to the Alcoholic Beverage Code. The proposed amendments would also allow payments to be made by electronic funds transfers, checks and money orders, and provide that payments be made to the Texas Alcoholic Beverage Commission instead of to the State Treasurer of Texas.

Section 41.31 is also being reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for readoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

Martin Wilson, Assistant General Counsel, has determined that for each year of the first five years that the proposed amendments will be in effect, there will be no fiscal impact on local government attributable to the amendments. There should be no fiscal impact on state government.

The proposed amendments will have no fiscal or regulatory impact on micro-businesses and small businesses or persons regulated by the commission. There is no anticipated negative impact on local employment.

Mr. Wilson has determined that for each year of the first five years that the proposed amendments will be in effect, the public will benefit because the rule will apply to all parties owing excise taxes, additional forms of payment will be authorized, and the appropriate payee will be named.

Comments on the proposed amendments may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127, or by facsimile transmission to (512) 206-3280. They may also be submitted electronically through the commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the commission will hold a public hearing to receive oral comments on the proposed amendments on Thursday, April 28, 2016 at 1:30 p.m. in the commission meeting room at the commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

The proposed amendments are authorized by Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The proposed amendments affect Alcoholic Beverage Code §5.31 and Government Code §2001.039.

Text of rule showing proposed amendments:

§41.31 Excise Tax.

Holdes of licenses and permits authorizing the manufacture, wholesaling or distribution of distilled spirits, wine, ale, malt liquor, and beer in importation of distilled spirits and wines into this state must pay the assessed excise tax assessed on distilled spirits and wines not later than the 15th day of the month following the month in which occurs the "first sale" as this term is defined in Alcoholic Beverage Code §201.02, §201.41 and §203.02. of the Alcoholic Beverage Code. Holdes of permits authorizing the manufacturing in this state or importation into this state of ale and malt liquor must pay the tax assessed on ale and malt liquor not later than the 15th day of the month following the month in which occurs the first sale or importation into this state of ale and malt liquor must pay the tax assessed on ale and malt liquor not later than the 15th day of the month following the month in which occurs the first sale or importation as set forth in §201.41, *et seq.*, of the Alcoholic Beverage Code. Remittance of the taxes on liquor, less 2.0% of the amount due when submitted within the required time, shall accompany the reports hereinafter provided for in sections 2, 4, and 6 of this rule. Remittance of all taxes shall be made by electronic funds transfer, check or money order made payable to the Texas Alcoholic Beverage Commission, cashier's check, certified check, or United States postal money order, payable to the State Treasurer of Texas.

Text of rule if the proposed amendments were to be adopted without change (after publication in the *Texas Register* and subsequent comment):

§41.31 Excise Tax.

Holdes of licenses and permits authorizing the manufacture, wholesaling or distribution of distilled spirits, wine, ale, malt liquor, and beer in this state must pay the assessed excise tax not later than the 15th day of the month following the month in which occurs the "first sale" as this term is defined in Alcoholic Beverage Code §201.02, §201.41 and §203.02. Remittance of all taxes shall be made by electronic funds transfer, check or money order made payable to the Texas Alcoholic Beverage Commission.

March 22, 2016 Commission Meeting

Agenda Item 26: Approve Publication of Proposed Amendments to Rule §41.38, Carrier Report

The Texas Alcoholic Beverage Commission proposes amendments to §41.38, relating to Carrier Report.

Section 41.38 addresses the reporting requirements for holders of Carrier Permits under Chapter 41 of the Alcoholic Beverage Code. The only substantive change that would be made by the proposed amendments would be to eliminate the requirement that car number and initials be given on the monthly report. Otherwise, the proposed amendments are changes to the wording, including changing the reference from "the administrator" to "the executive director" consistent with Alcoholic Beverage Code §5.11(b) and commission practice.

Section 41.31 is also being reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for readoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

Martin Wilson, Assistant General Counsel, has determined that for each year of the first five years that the proposed amendments will be in effect, there will be no fiscal impact on local government attributable to the amendments. There should be no fiscal impact on state government.

The proposed amendments will have no fiscal or regulatory impact on micro-businesses and small businesses or persons regulated by the commission. There is no anticipated negative impact on local employment.

Mr. Wilson has determined that for each year of the first five years that the proposed amendments will be in effect, the public will benefit because an unnecessary reporting requirement will be eliminated.

Comments on the proposed amendments may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127, or by facsimile transmission to (512) 206-3280. They may also be submitted electronically through the commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the commission will hold a public hearing to receive oral comments on the proposed amendments on Thursday, April 28, 2016 at 1:30 p.m. in the commission meeting room at the commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

The proposed amendments are authorized by Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The proposed amendments affect Alcoholic Beverage Code §5.31 and Government Code §2001.039.

Text of rule showing proposed amendments:

§41.38 Carrier Report.

(a) Each holder of a carrier ~~carrier's~~ permit under Chapter 41 ~~as provided in §41.04 et seq.~~, of the Alcoholic Beverage Code shall make a monthly report (~~Carrier Report~~) to the commission on forms prescribed by the executive director ~~administrator~~. The report shall be made and filed by the permittee with the commission at its offices in at Austin, Texas on or before the 15th day of the month following the calendar month for which the report is made. The report shall give an accurate account of all liquor, wine, ale, and beer transported by the carrier in interstate commerce during the month for which the report is made, and shall state the date of shipment, consignor, point of origin, consignee, destination, freight bill number, number of packages, ~~ear number and initials~~, kind of commodity shipped, and the date of delivery, and shall give all information requested by the form. If no interstate shipments were transported, a report shall be made stating such fact.

(b) This section shall not apply when it is necessary to cross this state in the transportation of an interstate or foreign shipment of liquor, wine, ale, or beer ~~it is necessary to cross this state~~.

Text of rule if the proposed amendments were to be adopted without change (after publication in the *Texas Register* and subsequent comment):

§41.38 Carrier Report.

(a) Each holder of a carrier permit under Chapter 41 of the Alcoholic Beverage Code shall make a monthly report to the commission on forms prescribed by the executive director. The report shall be made and filed by the permittee with the commission at its offices in Austin, Texas on or before the 15th day of the month following the calendar month for which the report is made. The report shall give an accurate account of all liquor, wine, ale, and beer transported by the carrier in interstate commerce during the month for which the report is made, and shall state the date of shipment, consignor, point of origin, consignee, destination, freight bill number, number of packages, kind of commodity shipped, and the date of delivery, and shall give all information requested by the form. If no interstate shipments were transported, a report shall be made stating such fact.

(b) This section shall not apply when it is necessary to cross this state in the transportation of an interstate or foreign shipment of liquor, wine, ale, or beer.

March 22, 2016 Commission Meeting

Agenda Item 27: Approve Publication of Proposed Amendments to Rule §41.43, Authorization

The Texas Alcoholic Beverage Commission proposes amendments to §41.43, relating to Authorization.

As currently written, §41.43 is intended to require that reports filed with the commission be notarized. However, it incorrectly refers to "section" instead of "subchapter". The proposed amendments would correct that reference, make the language gender neutral, and eliminate the requirement that the reports be notarized. Current commission practice does not require them to be notarized.

Section 41.43 is also being reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for readoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

Martin Wilson, Assistant General Counsel, has determined that for each year of the first five years that the proposed amendments will be in effect, there will be no fiscal impact on local government attributable to the amendments. There should be no fiscal impact on state government.

The proposed amendments will have no fiscal or regulatory impact on micro-businesses and small businesses or persons regulated by the commission. There is no anticipated negative impact on local employment.

Mr. Wilson has determined that for each year of the first five years that the proposed amendments will be in effect, the public will benefit because the section will contain the appropriate reference to the rules it covers and will conform to agency practice.

Comments on the proposed amendments may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127, or by facsimile transmission to (512) 206-3280. They may also be submitted electronically through the commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the commission will hold a public hearing to receive oral comments on the proposed amendments on Thursday, April 28, 2016 at 1:30 p.m. in the commission meeting room at the commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

The proposed amendments are authorized by Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The proposed amendments affect Alcoholic Beverage Code §5.31 and Government Code §2001.039.

Text of rule showing proposed amendments:

41.43 Required Signature Authorization.

Each report required by this subchapter section shall be signed and affirmed to be true and correct sworn to by the permittee or licensee or a his duly authorized representative ~~before a notary public, or other officer authorized to administer oaths.~~

Text of rule if the proposed amendments were to be adopted without change (after publication in the *Texas Register* and subsequent comment):

§41.43 Required Signature.

Each report required by this subchapter shall be signed and affirmed to be true and correct by the permittee or licensee or a duly authorized representative.

March 22, 2016 Commission Meeting

Agenda Item 28: Approve Publication of Proposed Amendments to Rule §41.44, Copy

The Texas Alcoholic Beverage Commission proposes amendments to §41.44, relating to Copy.

As currently written, §41.44 is intended to require that copies of reports filed with the commission be retained by the permittee or licensee for two years. However, it incorrectly refers to "section" instead of "subchapter". The proposed amendments would correct that reference.

Section 41.44 is also being reviewed under Government Code §2001.039, which requires each state agency to periodically review and consider for reoption each of its rules. The commission has determined that the need for the section continues to exist but that it should be amended.

Martin Wilson, Assistant General Counsel, has determined that for each year of the first five years that the proposed amendments will be in effect, there will be no fiscal impact on local government attributable to the amendments. There should be no fiscal impact on state government.

The proposed amendments will have no fiscal or regulatory impact on micro-businesses and small businesses or persons regulated by the commission. There is no anticipated negative impact on local employment.

Mr. Wilson has determined that for each year of the first five years that the proposed amendments will be in effect, the public will benefit because the section will contain the appropriate reference to the rules it covers and will standardize record retention requirements for certain reports across all categories of alcoholic beverages.

Comments on the proposed amendments may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127, or by facsimile transmission to (512) 206-3280. They may also be submitted electronically through the commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the commission will hold a public hearing to receive oral comments on the proposed amendments on Thursday, April 28, 2016 at 1:30 p.m. in the commission meeting room at the commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

The proposed amendments are authorized by Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The proposed amendments affect Alcoholic Beverage Code §5.31 and Government Code §2001.039.

Text of rule showing proposed amendments:

§41.44 Report Retention. ~~Copy.~~

An exact copy of each report required by this subchapter section shall be retained in the files of the permittee or licensee and shall be kept by said permittee or licensee for a period of at least two years, subject to inspection of the commission or its authorized representative at all reasonable office hours.

Text of rule if the proposed amendments were to be adopted without change (after publication in the *Texas Register* and subsequent comment):

§41.44 Report Retention.

An exact copy of each report required by this subchapter shall be retained in the files of the permittee or licensee and shall be kept by said permittee or licensee for a period of at least two years, subject to inspection of the commission or its authorized representative at all reasonable office hours.

CERTIFICATION

REGULAR COMMISSION MEETING

10:00 a.m. – March 22, 2016

**5806 Mesa Drive
Austin, TX 78731**



TABC

TEXAS ALCOHOLIC BEVERAGE COMMISSION

service ★ courtesy ★ integrity ★ accountability

STATE OF TEXAS

COUNTY OF TRAVIS

This certifies that the attached is a true copy of the proceedings of the Texas Alcoholic Beverage Commission meeting held on March 22, 2016.

A handwritten signature in black ink that reads "Sherry K. Cook".

Sherry Cook
Executive Director

Sworn and subscribed before me this the 25th day of May 2016.

A handwritten signature in black ink that reads "Gloria Darden Reed".

Gloria Darden Reed
Notary in and for Travis County

