

Licensing Division

Staff Report for the Towing and Storage Advisory Board

July 29, 2021

Statistics

Tow Trucks	New	New % Online	Renewed	Online Renewal	Population
FY 2020	3156	99%	7922	91%	11277
FY 2021 (1 st Qtr)	843	99%	1873	91%	11314
FY 2021 (2 nd Qtr)	780	99%	1985	98%	11098
FY 2021 (3 rd Qtr)	898	99%	1883	95%	11370

Tow Companies	New	New % Online	Renewed	Online Renewal	Population
FY 2020	982	91%	6885	91%	4301
FY 2021 (1 st Qtr)	287	91%	1634	91%	4343
FY 2021 (2 nd Qtr)	223	94%	1900	96%	4257
FY 2021 (3 rd Qtr)	233	93%	1708	97%	4310

Active Tow Company and Tow Truck Population Numbers by Type of Towing

Type of Towing	Company	Tow Truck
Consent	1839	3496
Private Property	167	379
Incident Management	1972	7555
Total**	3881	11430

**As of 7/14/2021

Vehicle Storage Facilities	New	New % Online	Renewed	Renewed % Online	Population
FY 2020	186	83%	3146	91%	1951
FY 2021 (1 st Qtr)	28	83%	810	91%	1973
FY 2021(2 nd Qtr)	31	89%	758	91%	1865
FY 2021 (3 rd Qtr)	42	89%	787	91%	1874

Tow Operators	New	New % Online	Renewed	Renewed % Online	Population
FY2020-TOTAL	3192	97%	9390	95%	14082
FY2021(1 st Qtr)	908	97%	2250	95%	14163
FY2021 (2 nd Qtr)	803	98%	2075	99%	14218
FY2021(3 rd Qtr)	902	98%	2070	99%	14486
FY2020 Consent	1538	99%	2492	99%	4699
FY2021(1 st Qtr)	429	99%	637	99%	4745
FY2021(2 nd Qtr)	334	99%	550	98%	4743
FY2021(3 rd Qtr)	421	99%	602	99%	4864
FY2020 Private Property	79	97%	188	100%	309
FY2021(1 st Qtr) Private Property	20	97%	53	100%	306
FY2021(2 nd Qtr) Private Property	20	95%	42	100%	308
FY2021(3 rd Qtr) Private Property	17	100%	42	100%	310
FY2020 Incident Management	1575	96%	6710	93%	9074
FY2021(1 st Qtr) Incident Management	459	96%	1560	93%	9112
FY2021(2 nd Qtr) Incident Management	449	97%	1483	99%	9167
FY2021(3 rd Qtr) Incident Management	464	98%	1426	99%	9312

Vehicle Storage Facility Employees	New	New % Online	Renewed	Renewed % Online	Population
FY2020	582	99%	1744	99%	2457
FY2021(1 st Qtr)	152	99%	363	99%	2438
FY2021(2 nd Qtr)	164	100%	362	100%	2445
FY2021(3 rd Qtr)	195	100%	379	100%	2513

Current Projects

*Update on Tow and VSF email counts

*Emergency extension update:

For the emergency extension we are making sure our licensees aware of the following:

- Under this emergency authorization, if license expired between August 1, 2020 and September 18, 2021, you will still be able to work for up to 120 days after your expiration date while your renewal is being processed. If TDLR makes a final determination that your renewal application is denied, you will no longer be able to work under the emergency license.
- Due to COVID-19, TDLR is facing an unprecedented challenge with processing paper renewals and applications. **We strongly encourage everyone who can renew online to take advantage of this option.** TDLR's online renewal portal accepts all major credit cards, including MasterCard and Visa branded gift cards.
- We are working as quickly as possible to process all payments that are included with your application. Please be advised that stopping payment through your financial institution will delay and/or stop your application from processing.

We are referring customers to the website for their extension information and to check for any updates.

Customer Service Division

Staff Report for the Towing and Storage Advisory Board

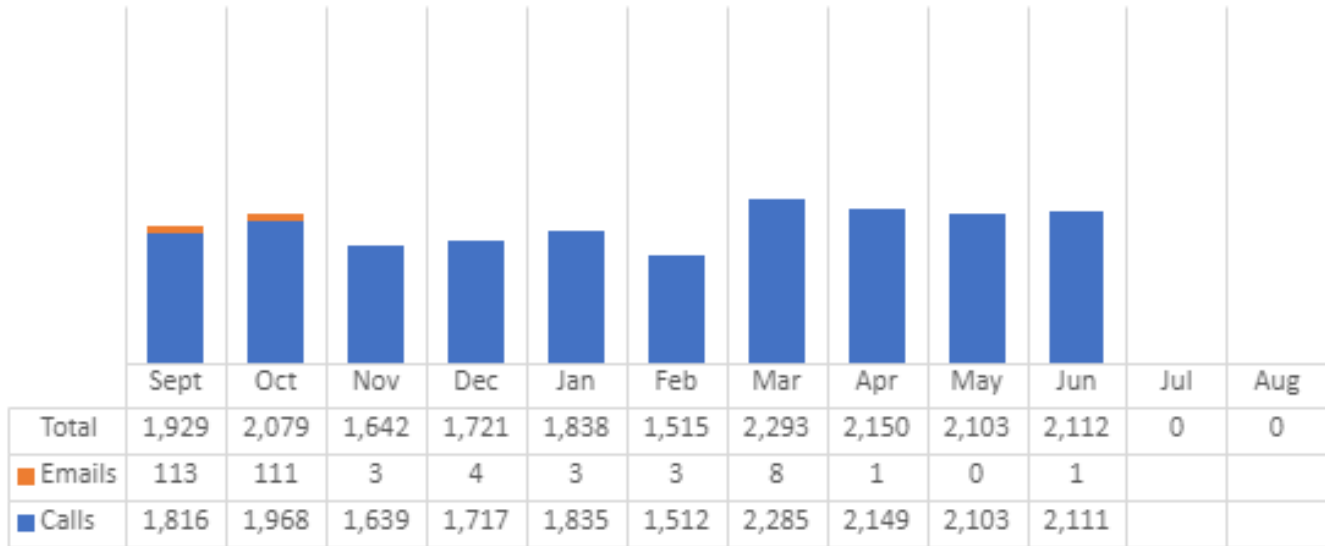
Thursday, July 29, 2021

Personnel Updates

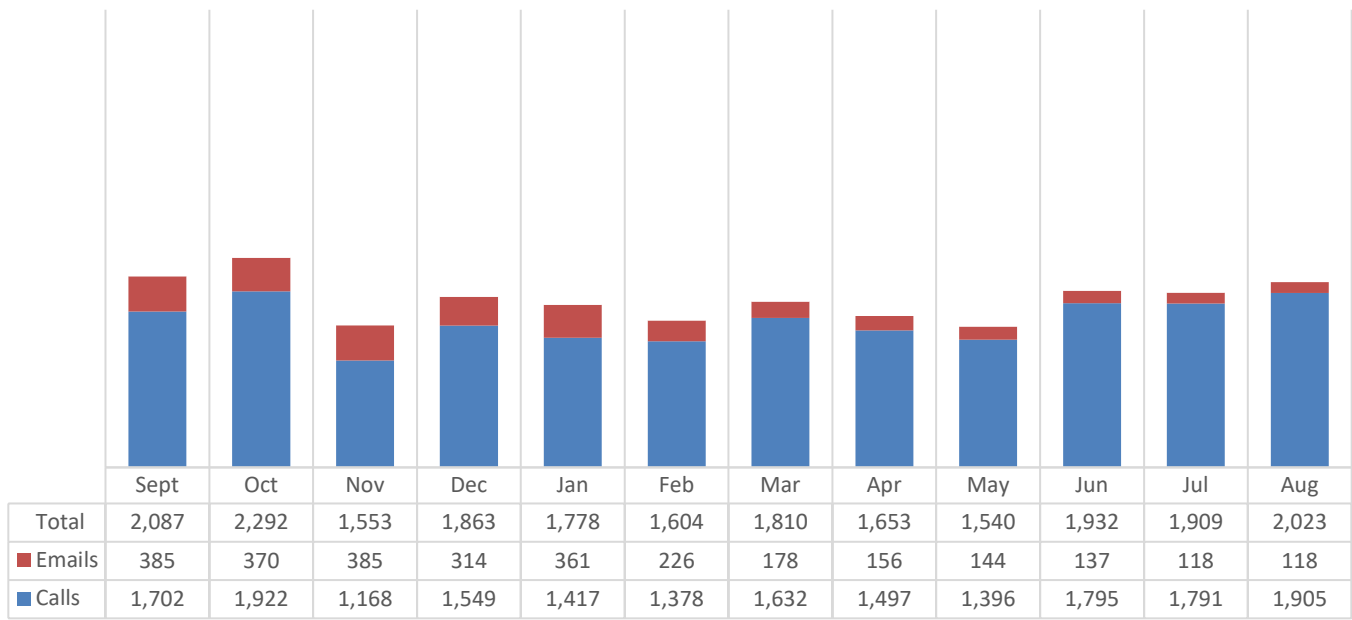
- After 15 years of service to TDLR, our Director of Customer Service Trey Seals has moved on to pursue other endeavors and we wish him the very best in his pursuits. The impact that he has had on the division and the agency cannot be overstated and we will miss him.
- Customer Service Quality Training and Performance Analyst Steven Huynh has accepted a position with TDLR's Office of Process and Project Management (OPPM). Because of his impressive commitment to developing onboard training as the agency grew with more and more programs, and because of his dedication in helping develop more sophisticated and detailed reports, we are excited to see the value he will add to the OPPM team's projects.
- The Customer Service Division is currently hiring for a Director, a Quality Training and Performance Analyst, and six Customer Service Representative positions.

Statistics

TOW/VSF CUSTOMER SERVICE CONTACTS FISCAL YEAR 2021



TOW/VSF CUSTOMER SERVICE CONTACTS FISCAL YEAR 2020



Enforcement Division

Staff Report for the Towing and Storage Advisory Board

July 29, 2021

Personnel Updates:

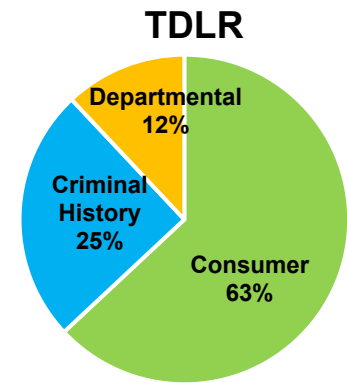
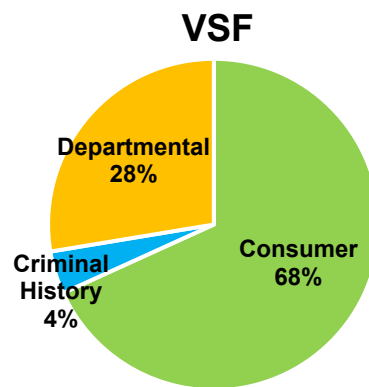
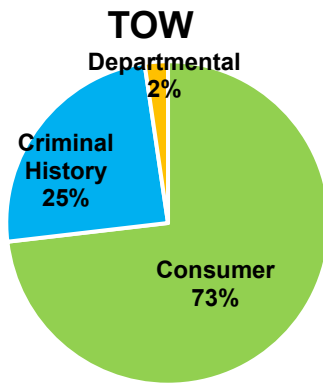
- Three attorneys, Sara McKinney, Rachel Seshan, and Hunter McKinley were hired as Attorney II positions to fill the vacancies created by promotions in the Enforcement Division. These three attorneys will be working our inspections cases and our unlicensed air conditioning and electrical cases. Their hiring’s were effective April 15, 2021.

Statistics Fiscal Year 2021:

Shown below are the Enforcement Performance Measures and key statistics for the Towing (TOW) and the Vehicle Storage Facility (VSF) programs and for all TDLR programs combined through June of **Fiscal Year 2021**:

Key Statistic	TOW	VSF	TDLR
Cases opened	987	431	8,146
Cases closed	867	360	7,734
Average time to close (days)	280.38	342.29	204.79
% of cases resolved within 6 months	45.33%	31.94%	60.58%
% of cases resulting in disciplinary action	7.73%	12.50%	14.61%
Cases Pending at end of June 2021	945	490	6,260

Source of cases opened through June of Fiscal Year 2021



Case Outcomes

	TOW	VSF	TDLR
Commission Orders	7	3	33
Default Orders	29	7	417
Agreed Orders	60	42	649
Penalties Assessed	\$121,000.00	\$120,125.00	\$2,376,591.00
Penalties Collected	\$58,500.00	\$76,450.00	\$1,028,246.00
Licenses Revoked (Disciplinary)	9	6	86
Licenses Suspended	1	0	7
Licenses Denied/Revoked (Criminal History)	18	2	210
Cease & Desist Orders	0	0	19
Informally Resolved*	765	307	6,508

*Informally Resolved break down

	TOW	VSF	TDLR
Insufficient Evidence	394	164	2,259
Percentage of cases closed for Insufficient Evidence	45.4%	45.6%	29.2%
Warning Letter	70	112	1,401
Complaint Withdrawn	11	2	116
Informally resolved	26	4	338
OTHER (CH Evaluations, reviews Applications/Renewals, Business closed, etc.)	264	25	2,394
Total	765	307	6,508

Top 10 TOW Alleged Violations at Opening through June of Fiscal Year 2021

Alleged Violation:	Count
Without authority - Illegal tow	384
Criminal History	231
Charged more than allowed for tow	87
Tow without proper signage	82
Lacks honesty, trustworthiness, or integrity	49
Did not tow in safe or competent manner	36
No tow company license	24
Failed to issue ticket	23
Failed to take to licensed VSF	17
Failed to have proper information on ticket	17

Top TOW Violations Resulting in Disciplinary Action through June of Fiscal Year 2021

Violation:	Count
Criminal History	14
Without authority - Illegal tow	13
Charged more than allowed for tow	13
Employed unlicensed person	8
Lacks honesty, trustworthiness, or integrity	7
No tow company license	6
Failed to comply with an order	5
No tow operator license	5
Tow without proper signage	4
Failed to have a permit for each truck	3
Failed to issue ticket	3

Top 10 VSF Alleged Violations at Opening through June of Fiscal Year 2021

Alleged Violation:	Count
Failed to timely send or publish notice	73
Charged unauthorized fee	51
Failed to release with proper documents & fee	35
Charged impound without services or date	35
Failed to include required information on notice	34
Did not accept cash, debit & credit	32
Vehicle not available for release	32
Did not maintain required records for 2 years	28
Unlicensed Company	23
Not completely enclosed by 6 ft fence	22

Top VSF Violations Resulting in Disciplinary Action through June of Fiscal Year 2021

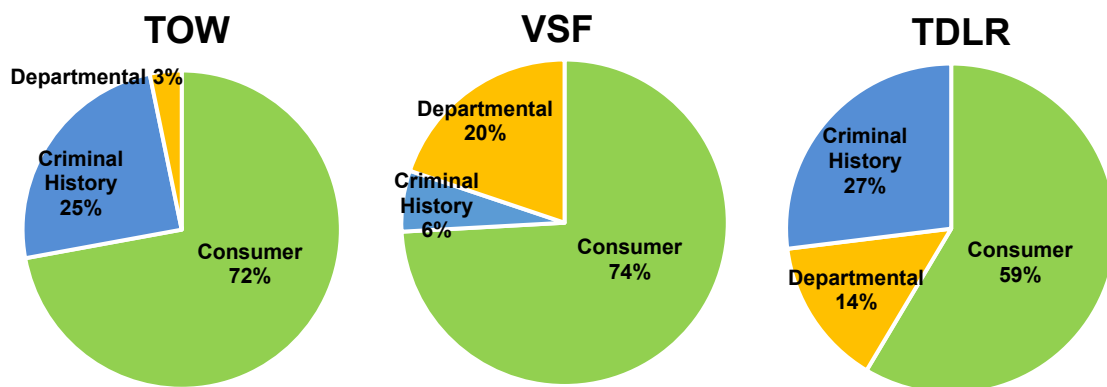
Violation:	Count
Charged impound without services or date	10
Failed to include required information on notice	10
Did not maintain required records for 2 years	7
Lacks honesty, trustworthiness, or integrity	7
Failed to timely send or publish notice	4
Unlicensed Company	4
Charged unauthorized fee	3
Overcharged for daily storage	3
Did not establish or follow drug policy	3
Did not cooperate with Department's Inspection	3
Failed to secure to prevent theft	3

Statistics Fiscal Year 2020:

Shown below are the Enforcement Performance Measures and key statistics for the Towing (TOW) and the Vehicle Storage Facility (VSF) programs and for all TDLR programs combined for **Fiscal Year 2020**:

Key Statistic	TOW	VSF	TDLR
Cases opened	1,159	630	10,465
Cases closed	1,035	565	9,763
Average time to close (days)	199.92	170.84	157.58
% of cases resolved within 6 months	54.49%	64.25%	68.64%
% of cases resulting in disciplinary action	6.57%	8.14%	13.48%
Cases Pending at end of FY2020	826	419	5,850

Source of cases opened for Fiscal Year 2020



Case Outcomes

Case Outcomes	TOW	VSF	TDLR
Commission Orders	13	0	28
Default Orders	29	9	339
Agreed Orders	35	46	853
Penalties Assessed	\$144,200.00	\$123,975.00	\$2,360,451.00
Penalties Collected	\$44,950.00	\$51,550.00	\$1,296,792.16
Licenses Revoked (Disciplinary)	10	3	62
Licenses Suspended	0	0	3
Licenses Denied/Revoked (Criminal History)	25	4	240
Cease & Desist Orders	3	0	46
Informally Resolved**	951	509	8,365

**Informally Resolved break down	TOW	VSF	TDLR
Insufficient Evidence	513	192	2,579
Percentage of cases closed for Insufficient Evidence	49.6%	34%	26.4%
Warning Letter	73	257	1,615
Complaint Withdrawn	24	3	127
Informally resolved	37	15	431
OTHER (CH Evaluations, reviews Applications/Renewals, Business closed, etc.)	304	42	3,613
**TOTAL	951	509	8,365

Top 10 TOW Alleged Violations at Opening for Fiscal Year 2020

Alleged Violation:	Count
Without authority - Illegal tow	380
Criminal History	285
Charged more than allowed for tow	90
Lacks honesty, trustworthiness, or integrity	69
Tow without proper signage	69
Did not tow in safe or competent manner	49
Failed to take to licensed VSF	36
No tow company license	31
Charges not related to tow	23
Failed to issue ticket	19

Top TOW Violations Resulting in Disciplinary Action for Fiscal Year 2020

Violation:	Count
Criminal History	25
Charged more than allowed for tow	12
Lacks honesty, trustworthiness, or integrity	10
Did not tow in safe or competent manner	5
No tow company license	5
Without authority - Illegal tow	5
Failed to pay dishonored check	3
No or improper signage on truck	3
No tow operator license	3
Refused/interfered with inspector/investigator	2

Failed to have proper information on ticket	2
Expired tow company license	2
Failed to make documents available upon request	2
Charges not related to tow	2
Failed to take to licensed VSF	2
Failed to cooperate with Department	2
Failed to maintain Insurance	2

Top 10 VSF Alleged Violations at Opening for Fiscal Year 2020

Alleged Violation:	Count
Failed to timely send or publish notice	86
Failed to release with proper documents & fee	67
Charged unauthorized fee	57
Criminal History	38
Vehicle not available for release	33
Did not accept cash, debit & credit	32
Did not maintain required records for 2 years	30
Notification not correctly mailed	29
Failed to include required info on notice	27
Unlicensed Company	27

Top 10 VSF Violations Resulting in Disciplinary Action for Fiscal Year 2020

Violation:	Count
Notification not correctly mailed	9
Failed to timely send or publish notice	9
Did not establish or follow drug policy	8
Did not maintain required records for 2 years	7
Charged unauthorized fee	5
Criminal History	4
Did not cooperate with Department's Inspection	3
Vehicle not available for release	3
Not completely enclosed by 6 ft fence	3
Failed to include required information on notice	3

Case Highlights

- **Cardenas, Valentin Antonio d/b/a M & M Towing and Recovery, Inc.**

TOW20190014729

An Agreed Order was issued on April 21, 2021, in which Respondent accepted an administrative penalty of \$750 for charging a nonconsent incident management tow fee greater than allowed by law. According to the City of Edinburg's tow ordinances, Respondent overcharged \$237.50 by charging separately and additionally for winching, clean-up, and a higher than allowed delivery fee. Respondent has paid the penalty.

- **Melvin J. Toliver d/b/a Knight's Towing**

TOW20190009260, TOW20190010343, TOW20190010560, TOW20190011486, and TOW20190015932

A Default Order was issued May 11, 2021, assessing Respondent an administrative penalty of \$11,900 for operating tow company and performing tow operations without holding the appropriate license issued by the Department. Respondent also used a tow truck for consent or nonconsent towing on public roadway in Texas without holding the appropriate license issued by the Department. Specifically, Respondent or his representatives performed at least 17 consent or nonconsent tows in February - July 2019 without the appropriate tow truck permit nor was Respondent licensed as a tow company. Respondent has not paid the penalty and is not currently licensed.

- **Farrah S. Long d/b/a Long's Towing**

TOW20190010981, TOW20190012045, TOW20200003843, TOW20200005776, TOW20200012801, and TOW20200013445

An Agreed Order was issued on May 12, 2021, in which Respondent agreed to the revocation of Long's tow company license, 006410319C. Respondent also agreed to pay a reimbursement of \$6,000 to a vehicle owner for failing to perform towing operations with honesty, trustworthiness, and integrity. Specifically, Respondent charged tow fees over the maximum allowed in several cases. Respondent also performed an incident management tow and participated in actions which resulted in the vehicle being taken to an unregulated body shop. The resulting charges were significantly greater than Respondent represented at the time of the tow. The vehicle owner was unable to pay the tow and storage fees and the vehicle was subsequently sold at auction. Respondent has paid the reimbursement.

- **J and B Hicks, Inc.**

VSF20180007719

A Commission Order was issued on May 6, 2021, accepting the Administrative Law Judge's Proposal for Decision recommending an administrative penalty of \$5,000 and the revocation of Respondent's Vehicle Storage Facility (VSF) license, 0574371VSF. This is flipping case. "Flipping" is when vehicle owners at an accident scene or at a VSF are deceived into signing documents that allow an unregulated body shop to take possession of the vehicle and can charge thousands of dollars in unnecessary fees. When the insurance company refuses to pay those fees -- and the vehicle owner can't afford to pay them -- the body shop can end up gaining ownership of the vehicle, selling it and keeping the money. In this case, Respondent failed to conduct its VSF operations with honesty, trustworthiness, and integrity. Respondent used deception to induce a vehicle owner to sign documents transferring the vehicle that the owner did not want repaired from Respondent's regulated VSF to Respondent's unregulated body shop. During the July 6, 2021 Commission meeting, Respondent's Motion for Rehearing was denied, and the Commission Order issued on May 6, 2021 stands.

- **ATX Towing, LLC**
VSF20200001830

An Agreed Order was issued on May 19, 2021, in which Respondent accepted an administrative penalty of \$1,150. A vehicle owner paid Respondent \$250 for the combined tow and storage fees of \$228.30. Respondent required exact change and refused to give the vehicle owner the \$21.70 change. Respondent also failed to note on the written bill for services the exact services performed for the fee and the date the services were performed. Respondent is paying the penalty in accordance with their payment plan.

FIELD INSPECTIONS DIVISION

Staff Report for the Towing and Storage Advisory Board

July 29, 2021

Personnel Updates

Field Inspections has posted two positions: 1) a Liaison; and 2) a Field Inspector in the East Region. Both positions are open until filled.

Statistics

Vehicle Storage Facilities

YTD/Year End	FY 2020	FY 2021 (YTD)
Sept	55	30
Oct	132	58
Nov	68	41
Q1	255	129
Dec	96	58
Jan	147	81
Feb	94	37
Q2	337	176
Mar	62	91
Apr	2	87
May	5	53
Q3	69	231
Jun	0	0
Jul	28	0
Aug	56	0
Q4	84	0
YTD/Year End	745	536

Note: TDLR suspended Tow Company and Tow Truck Inspections as of February 7, 2019.

Note: TDLR suspended inspections on March 17, 2020 in response to the COVID-19 pandemic and returned to limited inspections May 19, 2020.

Most Common Violations Found During Inspections

Vehicle Storage Facility Most Common Violations Found During Inspections

Fiscal Year 2021, 3rd Quarter

1. **Signs Required** 16 Tex. Admin. Code Ch. 85.1003(d); 16 Tex. Admin. Code Ch. 85.710(a)(3) – Failure to have a clearly visible sign in the proper lettering size and color contrast which lists all documents that may be presented to obtain possession of the vehicle, or did not state “Affidavit of Right of Possession Furnished Upon Request.”
2. **Signs Required** Tex. Occupations Code Section 2303.159(a-1) – Failed to have a conspicuously posted sign stating “This vehicle storage facility must accept payment by cash, credit card, and debit card for any fee or charge associated with delivery or storage of a vehicle.”
3. **Signs Required** 16 Tex. Admin. Code Ch. 85.707(a)-(b)(1) – Failed to notify the vehicle owner of the Department’s website and email address, mailing address, and telephone number where required.
4. **Signs Required** Tex. Occupations Code Section 2303.1551 – Failed to post a sign with one-inch letters stating “Nonconsent tow fees schedules available on request.”
5. **Sign at Main Entrance** 16 Tex. Admin. Code Ch. 85.1003(a) – Failed to have a clearly visible and readable sign which displays the required facility information in the proper lettering size and color contrast.
6. **Signs Required** 16 Tex. Admin. Code Ch. 85.1003(b) – Failed to have a clearly visible sign in the proper lettering size and color contrast which sets out the charge for storage and all other fees, and all forms of payment accepted.
7. **Impoundment Fee** 16 Tex. Admin. Code Ch. 85.722(e) – A VSF operator may charge a vehicle owner an Impoundment fee if Impoundment is performed in accordance with these rules. The Impoundment fee may not exceed \$20. If the VSF operator charges a fee for Impoundment, the written bill for services must specify the exact services performed for that fee and the dates those services were performed. (Direct to Enforcement violation if impoundment fee exceeds \$20).
8. **Storage Lot Surface** 16 Tex. Admin. Code Ch. 85.1001 – Failed to have an all-weather surface or surface was overgrown with vegetation.
9. **Storage Violations** 16 Tex. Admin. Code Ch. 85.1000(2)(B); 16 Tex. Admin. Code Ch. 85.719(a) – Failed to secure a vehicle accepted for storage to prevent theft of the vehicle or its contents.
10. **Storage Violations** 16 Tex. Admin. Code Ch. 85.1000(1) – Failed to lock the storage facility fence gate at all times when the licensee or an agent or employee is not at the storage lot. (Direct to Enforcement violation).

Current Projects

COVID-19 Response

- On March 17, 2020, TDLR suspended all inspections in response to the COVID-19 pandemic.
- In August 2020, TDLR began to field test a VSF virtual inspection process and testing continues.
- On August 7, 2020, TDLR resumed limited, on-site inspections of vehicle storage facilities (VSF) based on several factors:
 - whether the VSF was in a county where inspections had been suspended based on COVID-19 data and trends;
 - whether the VSF might a good candidate for a virtual inspection;
 - number of available inspectors trained on the VSF on-site inspection process; and
 - available travel budget.
- On April 6, 2021, all counties were removed from the COVID-19 suspended county list and are open for inspection activity.
- As of June 30, 2021, the Field Inspections division has conducted virtual inspections of 71 Vehicle Storage Facilities. 70 of these virtual inspections occurred during FY 2021.

REGULATORY PROGRAM MANAGEMENT DIVISION

Staff Report for the Towing and Storage Advisory Board

July 29, 2021

Statistics

September 1, 2020 to June 30, 2021 RPM has received 1,871 contacts. Contacts include industry contact seeking guidance on towing and VSF laws and rules, citizens with questions on towing and VSF laws and rules, and other industries seeking guidance from TDLR.

RPM is also continuing to monitor the web traffic to the industry compliance section of the towing and VSF website. When the pages went active in August 2019, the industry compliance section totaled around 1% of web traffic to the towing and VSF web pages. In the months since we have seen the industry compliance section climb to around 6% of traffic on the towing and VSF web pages.

Current Projects

RPM is continuing its analytic process to better monitor, review, and answer questions that come to the department, either directly or through internal channels. The program assists RPM in determining common issues as they arise to create better, more specific training for the industry and internally to TDLR staff. RPM hopes the process will help us better understand the needs of the industry, and the ability to provide consistent answers to questions.

RPM, along with the web development team is monitoring traffic to the TDLR website to attempt to determine the areas most visited. This information, along with the new web-site compliance section, will allow RPM to further determine the areas most visited so we determine the greatest need for trainings.

RPM is continuing to investigate webinar-based training for compliance issues that occur frequently. With the assistance of the analytic process RPM hopes to create webinars and other forms of media that are specific to industry needs.

Outreach

RPM has initiated an internet-based training due to limitations on in person contact and travel during the pandemic. The trainings take place over zoom and cover updates to the laws and rules and provide a platform for the industry to ask questions. A larger training is conducted once a month and generally has around 20 members of the industry from across the state. RPM is also offering the training to small groups or individual companies upon request and has conducted several of these covering specific questions they have and covering the laws and rules.

RPM will attend the Texas Tow Show August 6-8, 2021. RPM will provide training, have a booth to answer questions and speak at the Southwest Tow legislative meeting on Sunday August 8, 2021.

EDUCATION AND EXAMINATION DIVISION

Staff Report for the Towing and Storage Advisory Board

July 29, 2021

Statistics

Tow Operators Continuing Education

(As of June 30, 2021)

FY 2021	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
TOTAL NEW COURSE APPROVALS	2	4	1	7	1	8	11	20	10	2	6	18	3	-	-	-	48
TOTAL COURSE COUNT	48	46	49	49	50	49	58	58	60	51	56	56	55	-	-	-	55
FY 2020	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
COURSE APPROVALS ISSUED	3	2	1	6	3	7	4	14	9	9	1	19	2	4	4	10	49
TOTAL COURSE POPULATION	58	57	55	55	57	59	58	58	58	62	52	52	47	50	51	51	51

Tow IM/PP Training Program Curriculum FY 2021

(As of June 30, 2021)

FY 2021	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
TOTAL NEW CURRICULUM APPROVAL	0	1	0	1	0	0	0	0	0	0	0	0	0	-	-	0	1
TOTAL CURRICULUM COUNT	7	8	8	8	8	8	8	8	8	8	8	8	8	-	-	-	8
FY 2020	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
TOTAL NEW CURRICULUM APPROVAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL CURRICULUM COUNT	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7

CE Monthly Invoices
(As of May 31, 2021)

FY 2021	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
CE Invoices Mailed	25	26	26	77	24	27	30	81	25	28	26	79	-	-	-	-	237
CE Invoices Fees to be Collected	3,555	3,930	3,525	11,010	3,750	3,820	3,395	10,965	4,035	3,160	3,480	10,675	-	-	-	-	32,650