

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

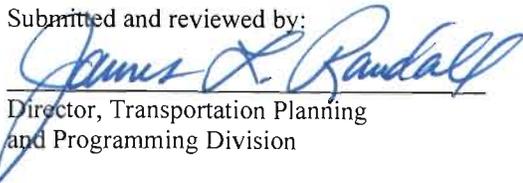
The Texas Transportation Commission (commission) finds it necessary to adopt the repeal of Subchapter A, Transportation Planning, §§15.1 - 15.8, Subchapter C, Distribution and Availability of Data, §15.21, and Subchapter D, Texas Highway Trunk System, §§15.40 - 15.42 all relating to transportation planning and programming to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted repeals, attached to this minute order as Exhibits A - D, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

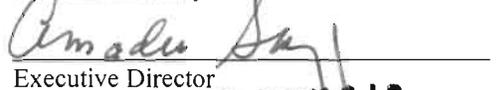
IT IS THEREFORE ORDERED by the commission that the repeal of §§15.1 - 15.8, §15.21, and §§15.40 - 15.42 are adopted and are authorized for filing with the Office of the Secretary of State.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:


Director, Transportation Planning
and Programming Division

Recommended by:


Executive Director

112373 AUG 26 10

Minute Number Date Passed

Adoption Preamble

1
2 The Texas Department of Transportation (department) adopts the
3 repeal of §15.1 Purpose, Applicability, and Scope, §15.2,
4 Definitions, §15.3, Organization, Structure, and
5 Responsibilities of Metropolitan Planning Organizations, §15.4,
6 Unified Planning Work Program (UPWP), §15.5, Metropolitan
7 Planning Process, §15.6, Metropolitan Transportation Plan,
8 §15.7, Transportation Improvement Program (TIP), §15.8,
9 Statewide Transportation Improvement Program (STIP), §15.21,
10 Distribution and Availability, §15.40, Purpose, §15.41,
11 Definitions, and §15.42, Selection Criteria, all concerning
12 transportation planning and programming. The repeals to
13 §§15.1 - 15.8, 15.21, and 15.40 - 15.42 are adopted without
14 changes to the proposed text as published in the June 11, 2010
15 issue of the *Texas Register* (35 TexReg 4973) and will not be
16 republished.

17

18 EXPLANATION OF ADOPTED REPEALS

19 Currently, the department has transportation planning and
20 programming rules in Title 43, Texas Administrative Code (TAC),
21 Chapter 15, Subchapter A, Transportation Planning, and
22 Subchapter D, Texas Highway Trunk System. Those rules focus
23 primarily on the federal planning and programming requirements
24 applicable to metropolitan planning organizations under
25 C.F.R. Parts 420 and 450. Before the Regular Session of the

1 Texas Legislature in 2009, the Sunset Advisory Commission made
2 several recommendations for legislation that would have required
3 the department to develop a continuing, cooperative, and
4 comprehensive transportation planning and programming process
5 for all modes of transportation involving all transportation
6 stakeholders. The recommendations of the Sunset Advisory
7 Commission report were incorporated in the transportation
8 planning article of the department's sunset bill, House Bill No.
9 300. Although H.B. 300 was not enacted, the concepts expressed
10 in the Conference Committee Report for the bill provide a basis
11 for revisions to the department's existing planning and project
12 development program.

13
14 On July 30, 2009, the Texas Transportation Commission
15 (commission) created the Transportation Planning and Project
16 Development Rulemaking Advisory Committee (rules advisory
17 committee) comprised of 11 members, including representatives
18 from large metropolitan planning organizations, small
19 metropolitan planning organizations, counties, transit
20 organizations, tolling authorities, small cities, councils of
21 governments, and the Federal Highway Administration. The rules
22 advisory committee met five times with department staff to give
23 advice, review draft proposals, and make specific
24 recommendations. The department also solicited public comments
25 on the draft rules. On May 4, 2010, with eight members present,

1 the rules advisory committee unanimously recommended that the
2 commission propose the draft rules.

3

4 The changes repeal 43 TAC Chapter 15, Subchapter A,
5 Transportation Planning and Subchapter D, Texas Highway Trunk
6 System. The development of rules for a comprehensive approach
7 to transportation planning, programming, funding, and
8 performance reporting requires a significant expansion of the
9 provisions in those subchapters. In order to consolidate and
10 expand those provisions, it is necessary to repeal Subchapters A
11 and D and simultaneously adopt new Chapter 16, Planning and
12 Development of Transportation Projects. The provisions
13 currently in 43 TAC Chapter 15, Subchapters A and D are being
14 incorporated into new 43 TAC Chapter 16, Subchapters A - C.

15

16 The amendments also repeal 43 TAC Chapter 15, Subchapter C,
17 Distribution and Availability of Data. The subchapter consists
18 of one section, §15.21, Distribution and Availability, which was
19 adopted to establish a procedure for charging government
20 agencies and private entities and individuals for maps, reports,
21 and regularly published statistical data requested from the
22 department. The repeal of §15.21 deletes language that has
23 become superfluous because of other law or that conflicts with
24 other law. Requests by private organizations, companies, or
25 individuals for maps, reports, or statistical data are subject

1 to the Public Information Act (Government Code, Chapter 552).
2 When the department provides requested information, the
3 requestor is charged according to a fee schedule established by
4 the Office of the Attorney General under Government Code,
5 §552.262 and contained in 1 TAC §70.10. Section 15.21 also
6 makes a potentially misleading distinction between materials
7 that are regularly published and those that are not. The Public
8 Information Act applies to both types of materials, and if the
9 materials are public information, the department is generally
10 required to make copies of it regardless of the interference to
11 the normal operations of the division in charge of the
12 information.

13
14 Additionally, Transportation Code, §204.002 requires the
15 department to provide a single copy of a travel document or map
16 distributed under Transportation Code, §204.001 free of charge.
17 Documents and maps created under Transportation Code, §204.001
18 include those that provide information about highways, parks,
19 historical facts, and other relevant matters of interest to the
20 traveling public. The repeal of §15.21 eliminates the confusion
21 over whether a map or document must be provided without charge
22 or according to the price schedule. The department may also
23 furnish maps, reports, and statistics, as well as other types of
24 information, to other government agencies without necessarily
25 invoking the Public Information Act and may charge for those

1 items at its discretion. The repeal of §15.21 reflects the fact
2 that some intergovernmental transfers are subject to the fee
3 schedule, while others are not.

4

5 COMMENTS

6 No comments on the proposed repeals were received.

7

8 STATUTORY AUTHORITY

9 The repeals are adopted under Transportation Code, §201.101,
10 which provides the commission with the authority to establish
11 rules for the conduct of the work of the department.

12

13 CROSS REFERENCE TO STATUTE

14 Transportation Code, Chapter 201, Subchapters H, I, and J.

1 SUBCHAPTER A. TRANSPORTATION PLANNING

2 §15.1. Purpose, Applicability, and Scope.

3 §15.2. Definitions.

4 §15.3. Organization, Structure, and Responsibilities of
5 Metropolitan Planning Organizations.

6 §15.4. Unified Planning Work Program (UPWP).

7 §15.5. Metropolitan Planning Process.

8 §15.6. Metropolitan Transportation Plan.

9 §15.7. Transportation Improvement Program (TIP).

10 §15.8. Statewide Transportation Improvement Program (STIP).

- 1 SUBCHAPTER C. DISTRIBUTION AND AVAILABILITY OF DATA
- 2 §15.21. Distribution and Availability.

Repeal

- 1 SUBCHAPTER D. TEXAS HIGHWAY TRUNK SYSTEM
- 2 §15.40. Purpose.
- 3 §15.41. Definitions.
- 4 §15.42. Selection Criteria.

Repeals