

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

The Texas Transportation Commission (commission) finds it necessary to adopt new §1.12 relating to negotiated rulemaking to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted new section, attached to this minute order as Exhibits A and B, 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*.

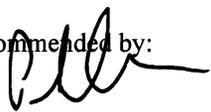
IT IS THEREFORE ORDERED by the commission that new §1.12 is adopted and is authorized for filing with the Office of the Secretary of State.

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:

  
\_\_\_\_\_  
General Counsel

Recommended by:

  
\_\_\_\_\_  
Executive Director

**112869 OCT 27 11**

Minute Number      Date Passed

1 Adoption Preamble

2 The Texas Department of Transportation (department) adopts new  
3 §1.12, concerning negotiated rulemaking. New §1.12 is adopted  
4 without changes to the proposed text as published in the  
5 August 12, 2011 issue of the *Texas Register* (36 TexReg 5080) and  
6 will not be republished.

7

8 EXPLANATION OF ADOPTED NEW SECTION

9 S.B. No. 1420, 82nd Legislature, Regular Session, 2011, the  
10 department's sunset bill, added Transportation Code, §201.118,  
11 which in part contains the Sunset Commission's across-the-board  
12 provision that requires the Texas Transportation Commission  
13 (commission) to develop and implement a policy to encourage the  
14 use of negotiated rulemaking procedures under Government Code,  
15 Chapter 2008.

16

17 New §1.12, adds provisions related to negotiated rulemaking.  
18 The new section provides a statement of the commission's policy  
19 of encouraging the use of negotiated rulemaking when that  
20 approach is appropriate. The commission appoints the general  
21 counsel as the negotiated rulemaking coordinator. The  
22 coordinator begins the negotiated rulemaking process on his or  
23 her own initiative or at the request of the commission or the  
24 department's executive director and is responsible for  
25 determining if the process is feasible and appropriate for a

1 specified subject. If the negotiated rulemaking process is  
2 used, the coordinator is required to ensure compliance with the  
3 Negotiated Rulemaking Act (Government Code, Chapter 2008). The  
4 commission authorizes the general counsel to delegate the duties  
5 and functions of the coordinator to another person.

6

7 COMMENTS

8 No comments on the proposed new section were received.

9

10 STATUTORY AUTHORITY

11 The new section is adopted under Transportation Code, §201.101,  
12 which provides the commission with the authority to establish  
13 rules for the conduct of the work of the department, and more  
14 specifically, Transportation Code, §201.118, which requires the  
15 commission to develop and implement a policy to encourage the  
16 use of negotiated rulemaking procedures.

17

18 CROSS REFERENCE TO STATUTE

19 Transportation Code, §201.118.

1 SUBCHAPTER D. PROCEDURE FOR ADOPTION OF RULES

2 §1.12. Negotiated Rulemaking.

3 (a) The Texas Transportation Commission (commission)  
4 encourages the use of negotiated rulemaking for the adoption of  
5 commission rules in appropriate situations.

6 (b) The general counsel of the Texas Department of  
7 Transportation is the commission's negotiated rulemaking  
8 coordinator. The general counsel may designate a person to  
9 perform the duties and functions of the coordinator.

10 (c) The negotiated rulemaking coordinator, on the  
11 coordinator's own determination or on the request of the  
12 commission or the executive director, will begin the negotiated  
13 rulemaking process on a specified subject.

14 (d) The negotiated rulemaking coordinator will follow the  
15 procedures provided in the Negotiated Rulemaking Act (Government  
16 Code, Chapter 2008) to determine whether the negotiated  
17 rulemaking process is a feasible method to develop a particular  
18 rule. If the coordinator determines that the negotiated  
19 rulemaking process is feasible and appropriate, the coordinator  
20 will ensure compliance with the Negotiated Rulemaking Act in  
21 developing the rule.