

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

The Texas Transportation Commission (commission) finds it necessary to propose new §§12.301-12.304 relating to the real-time system management information program to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed new sections, 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 §§12.301-12.304 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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:

Carol J. Hanson, P.E.  
Director, Traffic Operations Division

Recommended by:

[Signature]  
Executive Director

**115239 NOV 30 12**

Minute Number      Date Passed

1 Proposed Preamble

2 The Texas Department of Transportation (department) proposes new  
3 §§12.301-12.304, new Subchapter J, all relating to the  
4 establishment of a Real-Time System Management Information  
5 Program.

6

7 EXPLANATION OF PROPOSED NEW SECTIONS

8 A federal rule creating a new Part 511 under Title 23 of the  
9 Code of Federal Regulations (23 C.F.R. Part 511), which  
10 establishes a real-time system management information program  
11 under §1201 of the Safe, Accountable, Flexible, Efficient  
12 Transportation Equity Act: A Legacy for Users (SAFETEA-LU),  
13 became effective November 1, 2011. Title 23 C.F.R. Part 511  
14 requires a state to complete development of a program to collect  
15 and distribute real-time traffic and travel condition  
16 information for Interstate highways not later than November 8,  
17 2014 and for routes of significance in metropolitan areas not  
18 later than November 8, 2016 in order for the state to be  
19 eligible to receive federal funds for that program. The new  
20 sections define the requirements for the development of a Real-  
21 Time System Management Information (RTSMI) Program and will  
22 allow Texas to comply with federal law, including federal  
23 regulations.

24

25 New §12.301, Purpose, states that the new rules authorize the

1 RTSMI Program and provides the general reasons for these rules.

2

3 New §12.302, Definitions, provides the definitions for terms  
4 used within the subchapter. The terms are defined to provide a  
5 clear understanding of their usage within the subchapter.

6

7 New §12.303, Real-Time System Management Information Program,  
8 allows the department to contract for the development of the  
9 RTSMI Program and requires any developed system to conform to 23  
10 C.F.R. Part 511 and any traffic control devices installed under  
11 the program to conform to the Texas Manual on Uniform Traffic  
12 Control Devices (MUTCD). This section requires that the  
13 department comply with the applicable federal regulations and  
14 allows the flexibility to adjust the program if the federal  
15 regulations are amended. Any sign installed under the program  
16 must meet the Texas MUTCD requirements, which provides standards  
17 on the size, location, and material of signs installed on state  
18 right of way.

19

20 New §12.304, Program Acknowledgement Plaques, authorizes the  
21 department to allow for the installation of program  
22 acknowledgement plaques under the program to inform the public  
23 that a donation has been made to support the program. The  
24 requirements of the section comply with the federal guidelines  
25 regarding the size and content of the plaques and the

1 requirement that a plaque installed under the program must  
2 comply with state laws prohibiting discrimination. The new  
3 section further provides that the department may terminate the  
4 authority of the contractor to install an acknowledgement plaque  
5 because of safety concerns, interference with the free and safe  
6 flow of traffic, or a department determination that a donation  
7 under the program is not in the public interest.

8  
9 FISCAL NOTE

10 James Bass, Chief Financial Officer, has determined that for  
11 each of the first five years the new sections as proposed are in  
12 effect, there will be no fiscal implications for state or local  
13 governments as a result of enforcing or administering the new  
14 sections.

15  
16 Carol Rawson, P.E., Director, Traffic Operations Division, has  
17 certified that there will be no significant impact on local  
18 economies or overall employment as a result of enforcing or  
19 administering the new sections.

20  
21 PUBLIC BENEFIT AND COST

22 Ms. Rawson has also determined that for each year of the first  
23 five years in which the sections are in effect, the public  
24 benefit anticipated as a result of enforcing or administering  
25 the new sections will be the provision of easily accessible  
26 real-time information about travel and traffic conditions to the

1 traveling public. There are no anticipated economic costs for  
2 persons required to comply with the sections as proposed. There  
3 will be no adverse economic effect on small businesses.

4

5 SUBMITTAL OF COMMENTS

6 Written comments on the proposed new §§12.301-12.304 may be  
7 submitted to Robin Carter, Office of General Counsel, Texas  
8 Department of Transportation, 125 East 11th Street, Austin,  
9 Texas 78701-2483 or to RuleComments@txdot.gov with the subject  
10 line "§§12.301-12.304." The deadline for receipt of comments is  
11 5:00 p.m. on October 15, 2012. In accordance with  
12 Transportation Code, §201.811(a)(5), a person who submits  
13 comments must disclose, in writing with the comments, whether  
14 the person does business with the department, may benefit  
15 monetarily from the proposed new sections, or is an employee of  
16 the department.

17

18 STATUTORY AUTHORITY

19 The new sections are proposed under Transportation Code,  
20 §201.101, which provides the commission with the authority to  
21 establish rules for the conduct of the work of the department.

22

23 CROSS REFERENCE TO STATUTE

24 None.

1 SUBCHAPTER J. REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM

2 §12.301. Purpose. The purpose of this subchapter is to provide  
3 for a state Real-Time System Management Information Program that  
4 complies with 23 C.F.R. Part 511 and that makes information  
5 about current traffic and travel conditions available to the  
6 traveling public.

7

8 §12.302. Definitions. The following words and terms, when used  
9 in this subchapter, have the following meanings, unless the  
10 context clearly indicates otherwise.

11 (1) Contractor--A person that acts as the authorized agent  
12 of the department in the development, operation, or maintenance  
13 of a Real-Time System Management Information program.

14 (2) Department--The Texas Department of Transportation.

15 (3) Person--An individual, corporation, firm, group, or  
16 association.

17 (4) Program--The Real-Time System Management Information  
18 Program under which the state is responsible for the collection  
19 and availability to the traveling public of information about  
20 current traffic and travel conditions.

21 (5) Texas MUTCD--Texas Manual on Uniform Traffic Control  
22 Devices issued by the Texas Department of Transportation.

23

1 §12.303. Real-Time System Management Information Program.

2 (a) The department may award one or more contracts to  
3 design, build, host, operate, maintain, or market the program.

4 (b) The program must comply with 23 C.F.R. Part 511.

5 (c) Each traffic control device installed by a contractor  
6 under the program must conform to the requirements of the Texas  
7 MUTCD and must be approved by the department.

8

9 §12.304. Program Acknowledgement Plaques.

10 (a) To acknowledge a donation to the department for the  
11 program, the department may allow during the period of the  
12 related sponsorship agreement the installation of an  
13 acknowledgment plaque below a general service sign for the  
14 program that is in the state highway right of way.

15 (b) An acknowledgment plaque is intended only to inform the  
16 traveling public that a donation to the program has been  
17 provided and is not intended to provide advertisement.

18 (c) The size of an acknowledgment plaque may not exceed the  
19 lessor of one-third of the area of the general service sign  
20 below which it is mounted or 24 square feet, except as provided  
21 by this subsection. If, because of a special allowance provided  
22 in the Texas MUTCD, the area of the general service sign below  
23 which the acknowledgment plaque is mounted exceeds the largest

1 size generally prescribed in the Texas MUTCD for that type of  
2 sign, the acknowledgement plaque may not exceed the lessor of  
3 one-third of the area generally prescribed in the Texas MUTCD  
4 for that type of sign or 24 square feet.

5 (d) The acknowledgment plaque may contain the donor's  
6 registered business name or logo but may not contain the donor's  
7 telephone number, address, or website address.

8 (e) Each acknowledgment plaque must be approved by the  
9 department and must comply with state laws prohibiting  
10 discrimination based on race, religion, color, age, sex, or  
11 national origin, and any other applicable law regarding sign  
12 restrictions.

13 (f) The department will include in any contract entered  
14 into under this subchapter the authority to terminate the right  
15 to install an acknowledgment plaque if the use of the plaque  
16 raises any safety concerns or interferes with the free and safe  
17 flow of traffic, or if the department determines that  
18 acknowledging the donation is not in the public interest.