

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §7.31, relating to Safety Requirements, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed amendments, 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 the amendments to §7.31 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

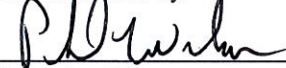
The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:



General Counsel

Recommended by:



Executive Director

113439 JAN 31 13

Minute Number Date Passed

1 Proposed Preamble

2 The Texas Department of Transportation (department) proposes
3 amendments to §7.31, concerning safety requirements.

4

5 EXPLANATION OF PROPOSED AMENDMENTS

6 During the department's rule review process, the Rail Division
7 identified several changes that are necessary to update §7.31,
8 Safety Requirements.

9

10 Amendments to §7.31 combine the laws listed in existing
11 subsections (b) and (c), that provide safety requirements
12 applicable to railroads operating in Texas, into a single list
13 and revise references to certain laws. Texas Civil Statutes,
14 Article 6492a has been revised as Transportation Code, Chapter
15 193 and the amendments to §7.31(b)(4) reflect that change. The
16 references to 49 C.F.R. Part 40 and 49 C.F.R. Parts 107 and 171-
17 180 are moved from existing subsection (c)(1) and (2) to new
18 subsection (b)(5) and (6), respectively. The references to the
19 specific provisions of the Code of Federal Regulations (C.F.R.)
20 contained in existing subsection (c)(3)-(24) are changed to a
21 more general reference and transferred to subsection (b)(7).
22 Existing subsection (c) is deleted as a result of the
23 combination of the two subsections.

24

1 FISCAL NOTE

2 James Bass, Chief Financial Officer, has determined that for
3 each of the first five years in which the amendments as proposed
4 are in effect, there will be no fiscal implications for state or
5 local governments as a result of enforcing or administering the
6 amendments.

7

8 Jeff Graham, General Counsel, has certified that there will be
9 no significant impact on local economies or overall employment
10 as a result of enforcing or administering the amendments.

11

12 PUBLIC BENEFIT AND COST

13 Mr. Graham has also determined that for each year of the first
14 five years in which the section is in effect, the public benefit
15 anticipated as a result of enforcing or administering the
16 amendments will be clarity in the department's rules. There are
17 no anticipated economic costs for persons required to comply
18 with the section as proposed. There will be no adverse economic
19 effect on small businesses.

20

21 SUBMITTAL OF COMMENTS

22 Written comments on the proposed amendments to §7.31 may be
23 submitted to Robin Carter, Office of General Counsel, Texas
24 Department of Transportation, 125 East 11th Street, Austin,
25 Texas 78701-2483 or to RuleComments@txdot.gov with the subject

1 line "7.31." The deadline for receipt of comments is 5:00 p.m.
2 on March 18, 2013. In accordance with Transportation Code,
3 §201.811(a)(5), a person who submits comments must disclose, in
4 writing with the comments, whether the person does business with
5 the department, may benefit monetarily from the proposed
6 amendments, or is an employee of the department.

7

8 STATUTORY AUTHORITY

9 The amendments are proposed under Transportation Code, §201.101,
10 which provides the Texas Transportation Commission with the
11 authority to establish rules for the conduct of the work of the
12 department.

13

14 CROSS REFERENCE TO STATUTE

15 Transportation Code, Chapters 111 and 193.

SUBCHAPTER D. RAIL SAFETY

§7.31. Safety Requirements.

(a) Applicability. A person, association, private corporation, public corporation, or any other entity that owns or operates a railroad shall comply with the requirements of this subchapter.

(b) Governing statutes. Railroads operating within the state of Texas shall comply with the safety requirements contained in or adopted under [~~the following statutes~~]:

(1) 49 United States Code, Subtitle III, Chapter 51;

(2) 49 United States Code, Subtitle V, Part A;

(3) Transportation Code, Chapter 111; [~~and~~]

(4) Transportation Code, Chapter 193; [~~Texas Civil Statutes, Article 6492a.~~]

(5) 49 C.F.R. Part 40;

(6) 49 C.F.R. Parts 107 and 171-180; and

(7) 49 C.F.R. Subtitle B, Chapter II, Federal Railroad Administration, Department of Transportation, Parts 200-299.

~~[(c) Federal regulations adopted by reference. The following federal railroad safety requirements, as they exist on the effective date of this rule, are adopted by the department as the minimum railroad safety requirements, and all railroads operating within the state of Texas shall comply with them:]~~

1 ~~[(1) transportation workplace drug testing programs,~~
2 ~~codified at 49 C.F.R. Part 40;]~~

3 ~~[(2) hazardous materials regulations, codified at 49~~
4 ~~C.F.R. Parts 107 and 171-180;]~~

5 ~~[(3) track safety standards, codified at 49 C.F.R. Part~~
6 ~~213;]~~

7 ~~[(4) railroad workplace safety standards, codified at 49~~
8 ~~C.F.R. Part 214;]~~

9 ~~[(5) freight car safety standards, codified at 49 C.F.R.~~
10 ~~Part 215;]~~

11 ~~[(6) special notice and emergency order procedures,~~
12 ~~codified at 49 C.F.R. Part 216;]~~

13 ~~[(7) federal operating practice regulations, codified at~~
14 ~~49 C.F.R. Parts 217, 218, 220, 221, 225, and 228;]~~

15 ~~[(8) control of alcohol and drug use, codified at 49~~
16 ~~C.F.R. Part 219;]~~

17 ~~[(9) locomotive horns at public highway rail crossings~~
18 ~~regulations, codified at 49 C.F.R. Part 222;]~~

19 ~~[(10) safety glazing standards, codified at 49 C.F.R.~~
20 ~~Part 223;]~~

21 ~~[(11) reflectorization of rail freight rolling stock~~
22 ~~regulations, codified at 49 C.F.R. Part 224;]~~

23 ~~[(12) occupational noise exposure, codified at 49 C.F.R.~~

1 ~~Part 227;~~

2 ~~[(13) locomotive safety standards, codified at 49 C.F.R.~~

3 ~~Part 229;~~

4 ~~[(14) steam locomotive inspection and maintenance~~

5 ~~standards regulations, codified at 49 C.F.R. Part 230;~~

6 ~~[(15) safety appliance standards, codified at 49 C.F.R.~~

7 ~~Part 231;~~

8 ~~[(16) power brake standards, codified at 49 C.F.R. Part~~

9 ~~232;~~

10 ~~[(17) signal system reporting requirements, codified at~~

11 ~~49 C.F.R. Part 233;~~

12 ~~[(18) grade crossing signal system safety, codified at 49~~

13 ~~C.F.R. Part 234;~~

14 ~~[(19) instructions governing applications for approval of~~

15 ~~a discontinuance or material modification of a signal system or~~

16 ~~relief from the requirements of 49 C.F.R. Part 236, codified at~~

17 ~~49 C.F.R. Part 235;~~

18 ~~[(20) rules, standards, and instructions for railroad~~

19 ~~signal systems, codified at 49 C.F.R. Part 236;~~

20 ~~[(21) bridge safety standards, codified at 49 C.F.R. Part~~

21 ~~237;~~

22 ~~[(22) passenger equipment safety standards regulations,~~

23 ~~codified at 49 C.F.R. Part 238;~~

1 [~~(23) passenger train emergency preparedness regulations,~~
2 ~~codified at 49 C.F.R. Part 239; and]~~

3 [~~(24) qualifications and certification of locomotive~~
4 ~~engineers, codified at 49 C.F.R. Part 240.]~~