

NEGOTIATED RULEMAKING

Effective Date: March 1, 2026

Purpose: It is the policy of the Commission to encourage the use of negotiated rulemaking when appropriate. Either the Commission or Commission staff may seek to use this process when considering a rule that has many competing interests and multiple stakeholders with fixed positions on their preferred outcome of the rule. The goal of the negotiated rulemaking process is to gain consensus on the rule from the competing parties.

If negotiated rulemaking is requested by a Commissioner or Commission staff for a particular rule, the Executive Director and General Counsel will determine whether the process is appropriate for the requested rule. If it is deemed to not be appropriate, the rule will be handled through the traditional rulemaking process. If the rule is suitable for negotiated rulemaking, the Executive Director or General Counsel will select a convenor to identify the stakeholders, publish the intent for the use of this process in the Texas Register, and appoint a negotiated rulemaking committee and facilitator. The process will follow the procedures established in Tex. Gov't Code Chapter 2008.

Per Tex. Gov't Code § 571.078(d), the Commission must designate a trained person to coordinate the implementation of this policy, serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution and collect data concerning the effectiveness of those procedures. The General Counsel has been designated as the trained person for the Commission.

Negotiated rulemaking is not a substitute for the traditional rulemaking process required by the Texas Administrative Procedure Act.

Scope: This policy applies to Commission rules.

Limitations: This policy does not supersede or replace the traditional rulemaking process.

Defined Terms: In this policy, "Negotiated Rulemaking" means the process described by Tex. Gov't Code Chapter 2008. "Convenor" means the person appointed to assist the Commission in identifying persons likely to be affected by the proposed rule and will engage in the process described by Tex. Gov't Code § 2008.052.