

REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039. Included here are proposed rule review notices, which

invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the website and printed copies of these notices may be directed to the *Texas Register* office.

Proposed Rule Reviews

Texas Health and Human Services Commission

Title 1, Part 15

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for re adoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 1, Part 15, of the Texas Administrative Code:

Chapter 357, Hearings

Subchapter A Uniform Fair Hearing Rules

Subchapter I Hearings Under the Administrative Procedure Act

Subchapter J Medicaid Third-Party Recovery

Subchapter K Administrative Fraud Disqualification Hearings

Subchapter L Fraud Involving Recipients

Subchapter M Fraud or Abuse Involving Medical Providers

Subchapter N Fraud or Abuse Involving Providers (Except Medical)

Subchapter O Recovery of Benefits Wrongfully Received

Subchapter P Civil Monetary Penalties

Subchapter Q Reimbursement Rates for Prosecution of Intentional Program Violations

Subchapter R Judicial and Administrative Review of Hearings

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 357, Hearings, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HHSCRulesCoordinationOffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 357" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the chapter being reviewed will not be published, but may be found in Title 1, Part 15, of the Texas Administrative Code on the Secretary of State's website at State Rules and Open Meetings (sos.texas.gov).

TRD-202400132

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: January 12, 2024



The Texas Health and Human Services Commission (HHSC) proposes to review and consider for re adoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 1, Part 15, of the Texas Administrative Code:

Chapter 391, Purchase of Goods and Services by the Texas Health and Human Services Commission

Subchapter A General Provisions

Subchapter B Procurement and Special Contracting Methods

Subchapter C Protests

Subchapter D Standards of Conduct for Vendors

Subchapter E Historically Underutilized Businesses

Subchapter F Contracts

Subchapter G Negotiation and Mediation of Certain Contract Claims Against HHSC

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 391, Purchase Of Goods And Services By The Texas Health And Human Services Commission, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HHSCRulesCoordinationOffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 391" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published, but may be found in Title 1, Part 15, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (texas.gov).

TRD-202400134

Jessica Miller
Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: January 16, 2024



The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 1, Part 15, of the Texas Administrative Code:

Chapter 393, Informal Dispute Resolution and Informal Reconsideration

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 393, Informal Dispute Resolution and Informal Reconsideration, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HHSRulesCoordinationOffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 393" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the chapter being reviewed will not be published, but may be found in Title 1, Part 15, of the Texas Administrative Code on the Secretary of State's website at State Rules and Open Meetings (texas.gov).

TRD-202400131
Jessica Miller
Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: January 12, 2024



Texas Education Agency

Title 19, Part 2

Texas Education Agency (TEA) proposes the review of 19 TAC Chapter 100, Charters, Subchapter AA, Commissioner's Rules Concerning Open-Enrollment Charter Schools, pursuant to Texas Government Code, §2001.039.

As required by Texas Government Code, §2001.039, TEA will accept comments as to whether the reasons for adopting Chapter 100, Subchapter AA, continue to exist.

The public comment period on the review begins January 26, 2024, and ends February 26, 2024. A form for submitting public comments on the proposed rule review is available on the TEA website at <https://tea.texas.gov/about-tea/laws-and-rules/commissioner-rules-tac/commissioner-of-education-rule-review>.

TRD-202400141
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: January 17, 2024



Health and Human Services Commission

Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code:

Chapter 301, IDD-BH Contractor Administrative Functions

Subchapter D LIDDA, LMHA, and LBHA Notification and Appeal Process

Subchapter F Provider Network Development

Subchapter G Mental Health Community Services Standards

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 301, IDD-BH Contractor Administrative Functions, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HHSRulesCoordinationOffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 301" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published, but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (texas.gov).

TRD-202400129
Jessica Miller
Director, Rules Coordination Office
Health and Human Services Commission
Filed: January 12, 2024



Adopted Rule Reviews

Health and Human Services Commission

Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 560, Denial or Refusal of License

Notice of the review of this chapter was published in the November 24, 2023, issue of the *Texas Register* (48 TexReg 6921). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 560 in accordance with §2001.039 of the Texas Government Code, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist. The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 560. Any amendments or repeals to Chapter 560 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 26 TAC Chapter 560 as required by the Texas Government Code §2001.039.

TRD-202400139

Jessica Miller
Director, Rules Coordination Office
Health and Human Services Commission
Filed: January 16, 2024



Texas Commission on Environmental Quality

Title 30, Part 1

The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 216, Water Quality Performance Standards for Urban Development, as required by Texas Government Code, §2001.039. Texas Government Code, §2001.039, requires a state agency to review and consider for re-adoption, re-adoption with amendments, or repeal each of its rules every four years. TCEQ published its Notice of Intent to Review these rules in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4135).

The review assessed whether the initial reasons for adopting the rules continue to exist and TCEQ has determined that those reasons exist. The rules in Chapter 216 are required because Chapter 216 provides specific procedures and measures to implement Texas Water Code, §26.177. The rules and statute address the TCEQ's authority to require a city with a population of 10,000 or more and water pollution that is attributable to non-permitted sources to develop a water pollution control and abatement program. Non-permitted sources of water pollution are those not authorized by a valid permit, general permit, or rule pursuant to Texas Water Code, Chapter 26, the federal Clean Water Act, or other applicable state or federal law. Because Texas Water Code, §26.177 is still effective, Chapter 216 is still needed.

Public Comment

The public comment period closed on August 28, 2023. TCEQ did not receive comments on the rules review of this chapter.

As a result of the review, TCEQ finds that the reasons for adopting the rules in 30 TAC Chapter 216 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202400097
Charmaine K. Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: January 11, 2024



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 220, Regional Assessments of Water Quality, as required by Texas Government Code, §2001.039. Texas Government Code, §2001.039, requires a state agency to review and consider for re-adoption, re-adoption with amendments, or repeal each of its rules every four years. TCEQ published its Notice of Intent to Review these rules in the July 14, 2023, issue of the *Texas Register* (48 TexReg 3928).

The review assessed whether the initial reasons for adopting the rules continue to exist and TCEQ has determined that those reasons exist. The rules in Chapter 220 are required because the rules establish procedures for the implementation of the Texas Clean Rivers Program under Texas Water Code (TWC), §26.0135. The rules and statute establish requirements for the strategic and comprehensive monitoring of water quality, periodic assessment of water quality in each river basin and watershed, and a process for public participation. Because TWC, §26.0135 still exists, the rules in Chapter 220 are still needed.

Public Comment

The public comment period closed on August 14, 2023. TCEQ did not receive comments on the rules review of this chapter.

As a result of the review, TCEQ finds that the reasons for adopting the rules in 30 TAC Chapter 220 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202400094
Charmaine K. Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: January 11, 2024



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 303, Operation of the Rio Grande, as required by Texas Government Code, §2001.039. Texas Government Code, §2001.039, requires a state agency to review and consider for re-adoption, re-adoption with amendments, or repeal each of its rules every four years. TCEQ published its Notice of Intent to Review these rules in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4136).

The review assessed whether the initial reasons for adopting the rules continue to exist and TCEQ has determined that those reasons exist. Chapter 303 provides the rules concerning the operation of the Rio Grande Watermaster program. The rules are needed because this program administers water rights in the Rio Grande Basin, which is subject to an interstate compact and an international treaty. Chapter 303 includes rules for the allocation and distribution of waters, enforcement regarding watermaster operations, amendments to and sales of water rights, contractual sales, excess flow permits, financing watermaster operations, and bed and banks permit provisions specific to the basin. The rules are necessary to implement the procedures and powers provided to the commission relating to watermaster operations contained in Texas Water Code, Chapter 11, including §§11.325 - 11.458.

Public Comment

The public comment period closed on August 28, 2023. TCEQ did not receive comments on the rules review of this chapter.

As a result of the review, TCEQ finds that the reasons for adopting the rules in 30 TAC Chapter 303 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202400098
Charmaine K. Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: January 11, 2024



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 333, Brownfields Initiatives, as required by Texas Government Code, §2001.039. Texas Government Code, §2001.039, requires a state agency to review and consider for re-adoption, re-adoption with amendments, or repeal each of its rules every four years. TCEQ published its Notice of Intent to Review these rules in the July 14, 2023, issue of the *Texas Register* (48 TexReg 3929).

The review assessed whether the reasons for initially adopting the rules continue to exist and TCEQ has determined that those reasons do con-

tinue to exist. The rules in Chapter 333, Subchapter A are required because they implement Texas Health and Safety Code (THSC), Chapter 361, Subchapter S, Voluntary Cleanup Program (VCP). The stated statutory purpose of the VCP is to provide incentives to remediate property by removing liability of lenders and future landowners. Sections 333.1 - 333.10 implement the VCP statute by defining relevant terms and establishing procedures relating to VCP applications and agreements, work plans and reports, and certificates of completion.

The rules in Chapter 333, Subchapter B are required because they implement THSC, Chapter 361, Subchapter V, Immunity from Liability of Innocent Owner or Operator. The statute provides certain liability protection for certain owners or operators who demonstrate that their property has become contaminated due to a release or migration of contaminants from a source or sources not located on or at the property and that the owner or operator did not cause or contribute to the source, among other conditions. Sections 333.31 - 333.43 implement the statute by defining relevant terms and establishing procedures relating to Innocent Owner/Operator Program applications as well as to the issuance, denial, or revocation of an innocent owner/operator certificate.

Public Comment

The public comment period opened on July 14, 2023, and closed on August 14, 2023. TCEQ did not receive comments on the rules review of this chapter.

As a result of the review, TCEQ finds that the reasons for initially adopting the rules in 30 TAC Chapter 333 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202400095

Charmaine K. Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: January 11, 2024

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The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 344, Landscape Irrigation, as required by Texas Government Code, §2001.039. Texas Government Code, §2001.039, requires a state agency to review and consider for re-adoption, re-adoption with amendments, or repeal each of its rules every four years. TCEQ published its Notice of Intent to Review these rules in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4136).

The review assessed whether the initial reasons for adopting the rules continue to exist and TCEQ has determined that those reasons exist. Chapter 344 implements Texas Occupations Code, §1903.053, which authorizes the adoption of standards for irrigation, water conservation, irrigation system design and installation, and for compliance with local municipal codes and Texas Occupations Code, §1903.053, by an irrigator, irrigation technician, or irrigation inspector. These requirements prohibit a person from acting as an irrigator, irrigation technician, or irrigator inspector without licensure.

Public Comment

The public comment period closed on August 28, 2023. TCEQ did not receive comments on the rules review of this chapter.

As a result of the review, TCEQ finds that the reasons for adopting the rules in 30 TAC Chapter 344 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202400096

Charmaine K. Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: January 11, 2024
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