

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 Department of Insurance, Division of Workers' Compensation

Title 28, Part 2

The Texas Department of Insurance, Division of Workers' Compensation (DWC) will review all sections in 28 Texas Administrative Code:

- Chapter 126 (General Provisions Applicable to All Benefits);
- Chapter 127 (Designated Doctor Procedures and Requirements); and
- Chapter 128 (Benefits--Calculation of Average Weekly Wage).

This review complies with the requirements for periodic rule review under Texas Government Code §2001.039.

DWC will consider whether the reasons for initially adopting these rules continue to exist, and whether these rules should be repealed, readopted, or readopted with amendments.

Comments

To comment on this review, you must:

- Submit your written comments by 5:00 p.m., Central time, on September 16, 2024.
- Specify the rule to which your comment applies.
- Include any proposed alternative language.

Send your written comments or hearing request to RuleComments@tdi.texas.gov or to:

Legal Services, MC-LS

Texas Department of Insurance, Division of Workers' Compensation

P.O. Box 12050

Austin, Texas 78711-2050

DWC may consider any suggested repeals or amendments identified during this rule review in future rulemaking under Texas Government Code Chapter 2001 (Administrative Procedure).

TRD-202403620

Kara Mace

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Filed: August 7, 2024



Employees Retirement System of Texas

Title 34, Part 4

The Employees Retirement System of Texas files this notice of intent to review 34 Texas Administrative Code Chapter 75, concerning Hazardous Profession Death Benefits, in accordance with Texas Government Code §2001.039.

The Board will assess whether the reasons for adopting or re-adopting this chapter continue to exist. Each section of the chapter will be reviewed to determine whether it is obsolete, reflects current legal and policy considerations, reflects current provisions related to the governance of the Board, and is in compliance with Chapter 2001 of the Texas Government Code (Administrative Procedure Act).

Comments on the review may be submitted in writing, within 30 days following the publication of this notice of intent to review in the *Texas Register*; to Cynthia C. Hamilton, General Counsel and Chief Compliance Officer, Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas 78711-3207, or you may email Ms. Hamilton at General.Counsel@ers.texas.gov. The deadline for receiving comments is Monday, September 16, 2024, at 10:00 a.m. Any proposed changes to the sections of this chapter as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be subject to an additional 30-day public comment period prior to final adoption of any repeal, amendment, or re-adoption.

TRD-202403575

Cynthia Hamilton

General Counsel and Chief Compliance Officer

Employees Retirement System of Texas

Filed: August 5, 2024



The Employees Retirement System of Texas files this notice of intent to review 34 Texas Administrative Code Chapter 85, concerning Flexible Benefits, in accordance with Texas Government Code §2001.039.

The Board will assess whether the reasons for adopting or re-adopting this chapter continue to exist. Each section of the chapter will be reviewed to determine whether it is obsolete, reflects current legal and policy considerations, reflects current provisions related to the governance of the Board, and is in compliance with Chapter 2001 of the Texas Government Code (Administrative Procedure Act).

Comments on the review may be submitted in writing, within 30 days following the publication of this notice of intent to review in the *Texas Register*; to Cynthia C. Hamilton, General Counsel and Chief Compliance Officer, Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas 78711-3207, or you may email Ms. Hamilton at General.Counsel@ers.texas.gov. The deadline for receiving comments is Monday, September 16, 2024, at 10:00 a.m. Any proposed changes to

the sections of this chapter as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be subject to an additional 30-day public comment period prior to final adoption of any repeal, amendment, or re-adoption.

TRD-202403578

Cynthia Hamilton

General Counsel and Chief Compliance Officer

Employees Retirement System of Texas

Filed: August 5, 2024



Texas Department of Criminal Justice

Title 37, Part 6

The Texas Board of Criminal Justice (board) files this notice of intent to review §161.21, concerning Role of the Judicial Advisory Council. This review is conducted pursuant to Texas Government Code §2001.039.

An assessment will be made by the board as to whether the reasons for readopting the rule continue to exist. The rule will be reviewed to determine whether to readopt, readopt with amendments, or repeal the rule.

Comments should be directed to the Office of the General Counsel, Texas Department of Criminal Justice, P.O. Box 4004, Huntsville, Texas 77342, ogccomments@tdcj.texas.gov. Written comments from the general public must be received within 30 days of the publication of this notice in the *Texas Register*.

TRD-202403618

Stephanie Greger

General Counsel

Texas Department of Criminal Justice

Filed: August 7, 2024



Adopted Rule Reviews

Texas Health and Human Services Commission

Title 1, Part 15

The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 1, Part 15, of the Texas Administrative Code (1 TAC):

Chapter 355, Reimbursement Rates

Notice of the review of this chapter was published in the June 7, 2024, issue of the *Texas Register* (49 TexReg 4065). HHSC received four comments from the Children's Hospital Association of Texas concerning this chapter. A summary of comments and HHSC's responses follows.

Comment: A commenter noted that HHSC defines a "children's hospital" as a Medicaid hospital designated by Medicare as a children's hospital and exempted by the federal government from the Medicare prospective payment system. In addition, the commenter noted that they are specialized facilities, as care for children differs from that of adults which makes them experts in identifying and treating children's conditions quickly.

Response: HHSC acknowledges this comment and the current definition. HHSC declines to make any changes to the rule in response to this comment.

Comment: A commenter provided comment in support of the re-adoption of 1 TAC §355.8058 Inpatient Direct Graduate Medical Education (GME) Reimbursement, explaining the importance of this rule in ensuring access to care for children due to it strengthening the pediatric medical workforce.

Response: HHSC acknowledges this comment in support of the re-adoption of 1 TAC §355.8058 Inpatient Direct Graduate Medical Education (GME) Reimbursement.

Comment: A commenter provided comment in support of the re-adoption of 1 TAC §355.8070 Hospital Augmented Reimbursement Program because of the critical support the program provides that allows children's hospitals to continue to provide care to children across the state of Texas.

Response: HHSC acknowledges this comment in support of the re-adoption of 1 TAC §355.8070 Hospital Augmented Reimbursement Program.

Comment: A commenter proposes that if updates to the rule are made to allow for an Outpatient Prospective Payment System (OPPS), stakeholder input should be considered. Additional recommendations are given regarding what to do if an OPPS is proposed.

Response: HHSC receives this comment related to 1 TAC §355.8061 Outpatient Hospital Reimbursement. HHSC values this input as HHSC places a high priority on ensuring access to care. These comments are outside the scope of this project. HHSC will retain these comments for consideration in future rule projects.

HHSC has reviewed Chapter 355 in accordance with Texas Government Code §2001.039, 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 rules in the chapter continue to exist and readopts Chapter 355 except for:

§355.309, Performance-based Add-on Payment Methodology; and

§355.314, Supplemental Payments to Non-State Government-Owned Nursing Facilities.

The repeals identified by HHSC in the rule review and any amendments, if applicable, to Chapter 355 will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 1 TAC Chapter 355 as required by the Texas Government Code §2001.039.

TRD-202403613

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: August 6, 2024



The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 1, Part 15, of the Texas Administrative Code (TAC):

Chapter 358, Medicaid Eligibility for the Elderly and People with Disabilities

Notice of the review of this chapter was published in the May 3, 2024, issue of the *Texas Register* (49 TexReg 3021). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 358 in accordance with Texas Government Code §2001.039, 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 rules in the chapter continue to exist and readopts Chapter 358 except for §358.402, Transfer of Assets before February 8, 2006.

The repeal identified by HHSC in the rule review and any amendments, if applicable, to Chapter 358 will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 1 TAC Chapter 358 as required by the Texas Government Code §2001.039.

TRD-202403544

Jessica Miller

Director, Rules Coordination office

Texas Health and Human Services Commission

Filed: July 31, 2024



Department of State Health Services

Title 25, Part 1

The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), adopts the review of the chapter below in Title 25, Part 1, of the Texas Administrative Code (TAC):

Chapter 84, Preventive Health and Health Services Block Grant

Notice of the review of this chapter was published in the February 23, 2024, issue of the *Texas Register* (49 TexReg 1106). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 84 in accordance with Texas Government Code §2001.039, 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 84. Any amendments, if applicable, to Chapter 84 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 25 TAC Chapter 84 as required by the Texas Government Code §2001.039.

TRD-202403610

Jessica Miller

Director, Rules Coordination Office

Department of State Health Services

Filed: August 6, 2024



Council on Cardiovascular Disease and Stroke

Title 25, Part 15

The Texas Council on Cardiovascular Disease and Stroke adopts the review of the chapter listed below, in its entirety, contained in Title 25, Part 15, of the Texas Administrative Code:

Chapter 1051, Rules

Notice of review of this chapter was published in the May 24, 2024, issue of the *Texas Register* (49 TexReg 3819). The Texas Council on Cardiovascular Disease and Stroke received no comments concerning this chapter.

The Texas Council on Cardiovascular Disease and Stroke has reviewed Chapter 1051 in accordance with Texas Government Code §2001.039,

which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The Texas Council on Cardiovascular Disease and Stroke determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 1051. Any amendments, if applicable, to Chapter 1051 identified by the Texas Council on Cardiovascular Disease and Stroke in the rule review will be proposed in a future issue of the *Texas Register*.

TRD-202403601

Jessica Miller

Director, Rules Coordination Office

Council on Cardiovascular Disease and Stroke

Filed: August 5, 2024



Texas 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 349, Purchase of Goods and Services for Rehabilitation, Independence, and Early Childhood Intervention

Notice of the review of this chapter was published in the June 14, 2024, issue of the *Texas Register* (49 TexReg 4439). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 349 in accordance with Texas Government Code §2001.039, 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 349. Any amendments, if applicable, to Chapter 349 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 349 as required by the Texas Government Code §2001.039.

TRD-202403561

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: August 2, 2024



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 351, Children with Special Health Care Needs Services Program

Notice of the review of this chapter was published in the June 14, 2024, issue of the *Texas Register* (49 TexReg 4440). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 351 in accordance with Texas Government Code §2001.039, 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 351. Any amend-

ments, if applicable, to Chapter 351 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 351 as required by the Texas Government Code §2001.039.

TRD-202403560

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: August 2, 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 217, Design Criteria for Domestic Wastewater Systems, as required by Texas Government Code (TGC), §2001.039. TGC, §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 November 24, 2023, issue of the *Texas Register* (48 TexReg 6922).

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 217 are required because the rules provide design standards for treatment facilities, sewer systems, and disposal systems that transport, treat, or dispose of domestic wastewater. The rules also provide the standards that TCEQ uses in its review and approval of design plans and specifications. The rules are necessary to ensure that domestic wastewater systems are designed and operated to be protective of human health and the environment.

Public Comment

The public comment period closed on January 3, 2024. 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 217 continue to exist and readopts these sections in accordance with the requirements of TGC, §2001.039.

TRD-202403548

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 1, 2024



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 222, Subsurface Area Drip Dispersal Systems, as required by Texas Government Code (TGC), §2001.039. TGC, §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 November 24, 2023, issue of the *Texas Register* (48 TexReg 6922).

The review assessed whether the initial reasons for adopting the rules continue to exist and TCEQ has determined that those reasons exist. A subsurface area drip dispersal system (SADDs) is a waste disposal sys-

tem that injects processed commercial, industrial, or municipal wastewater into the ground at a depth of not more than 48 inches and spreads the waste over a large enough area that the soil hydrologic absorption rate and crop/plant root absorption rate are not exceeded. Chapter 222 is necessary as it implements Chapter 32 of the Texas Water Code by establishing a permit application process for SADDs thereby setting standards for the design, construction, location, operation, and maintenance of SADDs.

Public Comment

The public comment period closed on December 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 222 continue to exist and readopts these sections in accordance with the requirements of TGC, §2001.039.

TRD-202403549

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 1, 2024



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 324, Used Oil Standards, as required by Texas Government Code (TGC), §2001.039. TGC, §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 May 3, 2024, issue of the *Texas Register* (49 TexReg 3022).

The review assessed whether the initial reasons for adopting the rules continue to exist, and the TCEQ has determined that those reasons exist. The rules in Chapter 324 implement Texas Health and Safety Code Chapter 371 and 40 Code of Federal Regulations Part 279. The rules in Chapter 324 provide requirements for the management of used oil and include the requirements for TCEQ to issue registrations for Used Oil Handlers who transport, process, re-refine, and market used oil to meet federal requirements. In addition, the rules also include the requirements for the registration of Used Oil Collection Centers that accept used oil from household do-it-yourselfers and other generators to reduce oil-related environmental pollution in a manner that complies with state and federal requirements to protect human health and the environment.

Public Comment

The public comment period closed on June 4, 2024. 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 324 continue to exist and readopts these sections in accordance with the requirements of TGC, §2001.039.

TRD-202403550

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 1, 2024

