

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.

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 (TAC):

Chapter 352, Medicaid and Children's Health Insurance Program Provider Enrollment

Notice of the review of this chapter was published in the June 28, 2024, issue of the *Texas Register* (49 TexReg 4811).

HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 352 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 352. Any amendments, if applicable, to Chapter 352 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 1 TAC Chapter 352 as required by the Texas Government Code §2001.039.

TRD-202404079

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: August 30, 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 380, Medical Transportation Program

Notice of the review of this chapter was published in the June 21, 2024, issue of the *Texas Register* (49 TexReg 4605). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 380 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 380. Any amendments, if applicable, to Chapter 380 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 1 TAC Chapter 380 as required by the Texas Government Code §2001.039.

TRD-202404045

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: August 29, 2024



Department of State Health Services

Title 25, Part 1

The Texas Health and Human Services Commission (HHSC), in its own capacity and 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 1, Miscellaneous Provisions

Notice of the review of this chapter was published in the June 7, 2024, issue of the *Texas Register* (49 TexReg 4066). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 1 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 1 except for:

§1.101, Memorandum of Understanding;

§1.104, Signs Covering the Prohibition of the Sale or Provision of Tobacco Products to a Minor under 18 Years of Age;

§1.121, Memorandum of Understanding on the Coordination of Services to Disabled Persons;

§1.251, Procedures for Handling Requests for Public Information;

§1.501, Privacy of Health Information under the Health Insurance Portability and Accountability Act of 1996;

§1.502, Protecting the Confidentiality of Protected Health Information;

§1.503, Individual's Right to Correction of Incorrect Information; and

§1.504, Correction Procedure.

The identified repeals and any amendments, if applicable, to Chapter 1 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 1 as required by the Texas Government Code §2001.039.

TRD-202404037

Jessica Miller

Director, Rules Coordination Office
Department of State Health Services
Filed: August 28, 2024



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

Chapter 419, Mental Health Services--Medicaid State Operating Agency Responsibilities

Notice of the review of this chapter was published in the June 28, 2024, issue of the *Texas Register* (49 TexReg 4812). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 419 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 419. Any amendments, if applicable, to Chapter 419 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 419 as required by Texas Government Code §2001.039.

TRD-202404036

Jessica Miller

Director, Rules Coordination Office
Department of State Health Services
Filed: August 28, 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 334, Rights and Protection of Individuals with an Intellectual Disability

Notice of the review of this chapter was published in the July 19, 2024, issue of the *Texas Register* (49 TexReg 5366). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 334 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 334. Any amendments, if applicable, to Chapter 334 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 334 as required by the Texas Government Code §2001.039.

TRD-202404078

Jessica Miller

Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: August 30, 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 279, Water Quality Certification, as required by Texas Government Code (TGC), §2001.039. TGC, §2001.039, requires a state agency to review and consider for readoption, readoption with amendments, or repeal each of its rules every four years. TCEQ published its Notice of Intent to Review these rules in the May 31, 2024, issue of the *Texas Register* (49 TexReg 3939).

The review assessed whether the initial reasons for adopting the rules continue to exist and TCEQ has determined that those reasons exist. The rules under Chapter 279 are required because the rules govern the issuance of state water quality certifications under the federal Clean Water Act (the Act), §401, codified at 33 United States Code, §1341. The Act, §401(a)(1), requires all applicants for a federal license or permit to conduct any activity that may result in a discharge into navigable waters, including the construction or operation of facilities, to request a certification from the state that the discharge will comply with state water quality standards. The rules establish procedures for public notice and the review of applications for water quality certification. These rules are needed for implementation by TCEQ of the certification and notice provisions of the Act, §401.

Public Comment

The public comment period closed on July 1, 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 279 continue to exist and readopts these sections in accordance with the requirements of TGC, §2001.039.

TRD-202404105

Charmaine K. Backens

Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: August 30, 2024



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 311, Watershed Protection Areas, as required by Texas Government Code (TGC), §2001.039. TGC, §2001.039, requires a state agency to review and consider for readoption, readoption with amendments, or repeal each of its rules every four years. TCEQ published its Notice of Intent to Review these rules in the May 31, 2024, issue of the *Texas Register* (49 TexReg 3939).

The review assessed whether the initial reasons for adopting the rules continue to exist, and TCEQ has determined that those reasons do continue to exist. The rules under Chapter 311 are required because the rules provide for protection of certain water quality areas by either prohibiting discharges or by defining effluent quality for discharges in specific watersheds. Watershed protection and management

requirements are specified for the following water quality areas: Subchapter A: Lakes Travis and Austin; Subchapter B: Lakes Inks and Buchanan; Subchapter C: Clear Lake Watershed; Subchapter D: Lake Houston Watershed; Subchapter E: Colorado River Watershed; Subchapter F: Lakes Lyndon B. Johnson and Marble Falls; Subchapter G: Lakes Worth, Eagle Mountain, Bridgeport, Cedar Creek, Arlington, Benbrook and Richland-Chambers; and Subchapter H: Regulation of Quarries in the John Graves Scenic Riverway. Subchapter I, Discharge of Pesticides, exempts discharges associated with pesticide applications from the discharge prohibition in Subchapters A, B, and F.

Public Comment

The public comment period closed on July 1, 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 311 continue to exist and readopts these sections in accordance with the requirements of TGC, §2001.039.

TRD-202404107

Charmaine K. Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 30, 2024



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 312, Sludge Use, Disposal, and Transportation, 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 31, 2024, issue of the *Texas Register* (49 TexReg 3939).

The review assessed whether the initial reasons for adopting the rules continue to exist and TCEQ has determined that those reasons exist. The rules under Chapter 312 provide for regulation of the processing, use, and disposal of sewage sludge, domestic septage, and water treatment sludge, as well as regulation of the transportation of these and other liquid wastes. Additionally, the rules in Chapter 312 provide that registrations or permits are required to engage in any of these activities.

The rules in Chapter 312 are needed to implement the provisions of Texas Health and Safety Code, Chapter 361 that govern the use and disposal of sewage sludge, water treatment sludge, and domestic septage and that govern the transportation of liquid wastes. The rules are also needed to protect the quality of the water in the state under Texas Water Code, Chapter 26.

Chapter 312 is divided into Subchapters A - G, which set forth general administrative provisions and fees; provisions for the beneficial use of sewage sludge and/or domestic septage; provisions for land disposal of sewage sludge and domestic septage; criteria for pathogen reduction and odor control for use or disposal of sewage sludge and domestic septage; guidelines for incineration of sewage sludge and domestic septage; provisions for disposal of water treatment sludge or its use as a soil amendment; and provisions for the transportation of sewage sludge, water treatment sludge, domestic septage, grease trap waste, grit trap waste, and chemical toilet waste (collectively termed "liquid wastes").

Public Comment

The public comment period closed on July 1, 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 312 continue to exist and readopts these sections in accordance with the requirements of TGC, §2001.039.

TRD-202404110

Charmaine K. Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 30, 2024



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 321, Control of Certain Activities by Rule, 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 31, 2024, issue of the *Texas Register* (49 TexReg 3940).

The review assessed whether the initial reasons for adopting the rules continue to exist and TCEQ has determined that those reasons exist. The rules under Chapter 321 provide Texas authorization for numerous discharges that are more efficiently authorized by rule than by individual permits.

Subchapter A, Boat Sewage Disposal, contains: authority; definitions; discharge prohibited; the requirements for marine sanitation devices; design specifications and operation requirements for boat pump-out stations; applicability of certifications; obtaining certifications; certification fees; evidence of certifications; delegation to local governmental entities; and criminal penalties.

Subchapter B, Concentrated Animal Feeding Operations (CAFOs), contains: manure, litter, and wastewater discharge and air emissions limitations; definitions; applicability and required authorizations; permit applications; fees; Texas Pollutant Discharge Elimination System general requirements for CAFOs; effluent limitations for CAFO production areas; control facility design requirements applicable to CAFOs; operational requirements applicable to CAFOs; CAFO land application requirements; special requirements for discharges to a playa; requirements applicable to the major sole-source impairment zone; air standard permit for Animal Feeding Operations (AFOs); CAFO notification requirements; CAFO training requirements; CAFO pollution prevention plan, site evaluation, recordkeeping, and reporting; and requirements for AFOs not defined or designated as CAFOs.

Subchapter C, Meat Processing, contains: definitions; application of subchapter; permit alternative; protection of surface water; protection of groundwater; disposal of solid wastes; and prohibition of unauthorized discharge.

Subchapter D, Sand and Gravel Washing, contains: application of subchapter; exception to application of subchapter; treatment and retention facilities; diversion of runoff; available capacity; and prohibition of unauthorized discharge.

Subchapter I, Additional Characteristics and Conditions of General Permits and for Controlling Certain Activities by Rule, contains additional characteristics and conditions for general permits and control of certain activities by rule.

Subchapter N, Handling of Wastes from Commercial Facilities Engaged in Livestock Trailer Cleaning, contains: statement of no discharge policy; definitions; purpose and applicability; certificate of registration and public notice; requirements for containment of wastes and pond(s); general requirements; restrictions; enforcement and revocation; and annual waste treatment fees.

Subchapter P, Reclaimed Water Production Facilities, contains: purpose and applicability; definitions; general requirements; restrictions; application requirements; application review; authorization; design requirements; buffer zone requirements; public notice requirements; additional reclaimed water production facility requirements; enforcement; and fees.

Public Comment

The public comment period closed on July 1, 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 321 continue to exist and readopts these sections in accordance with the requirements of TGC, §2001.039.

TRD-202404111

Charmaine K. Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 30, 2024



Texas Emergency Services Retirement System

Title 34, Part 11

The Texas Emergency Services Retirement System (TESRS) readopts the rules in the following chapters of Title 34 Texas Administrative Code in accordance with Texas Government Code §2001.039: Chapter 302, General Provisions Relating to the Texas Emergency Services Retirement System; Chapter 304, Membership in the Texas Emergency Services Retirement System; Chapter 306, Creditable Service for Members of the Texas Emergency Services Retirement; Chapter 308, Benefits from the Texas Emergency Services Retirement System; and Chapter 310, Administration of the Texas Emergency Services Retirement. The notice of intent to review the rules was published in the March 29, 2024, issue of the *Texas Register* (49 TexReg 2098).

TESRS received two comments. The first comment requested that TESRS consider an amendment to the qualified service rule in Chapter 302 that would allow local departments to use scheduling coverage or shift-based coverage in calculating qualified service in lieu of or in combination with responding to emergencies. TESRS acknowledges this comment but does not consider it to impact the reason for the existence of the rules. TESRS will retain and consider this comment in connection with future amendments to Chapter 302. The second comment requested that TESRS consider providing a cost-of-living adjustment to offset the cost of inflation. TESRS acknowledges this comment but notes that adopting a new rule to provide a cost-of-living adjustment is outside the scope of the review of the current rules. TESRS will retain and consider this comment in connection with future amendments to the rules.

TESRS has assessed whether the reasons for adopting the rules continue to exist in accordance with Texas Government Code §2001.039. TESRS finds that the rules are essential to the administration of TESRS as a qualified defined benefit retirement plan. As a result of the review, TESRS finds the reasons for initially adopting the rules continue to exist. This concludes the review of the rules.

TRD-202404109

Jessica O'Brien

Executive Director

Texas Emergency Services Retirement System

Filed: August 30, 2024



Texas Workforce Commission

Title 40, Part 20

The Texas Workforce Commission (TWC) has completed its review of Chapter 823, Integrated Complaints, Hearings, and Appeals; Chapter 837, Apprenticeship Training Program; Chapter 840, WIOA Eligible Training Providers; Chapter 842, WIOA Nondiscrimination and Equal Opportunity; and Chapter 858, Procurement and Contract Management Requirements for Purchase of Goods and Services for Vocational Rehabilitation Services, in accordance with Texas Government Code, §2001.039. The notice of intent to review the rules was published in the July 19, 2024, issue of the *Texas Register* (49 TexReg 5366).

The comment period ended on August 19, 2024. TWC did not receive any comments on the proposed rule reviews.

TWC assessed whether the reasons for adopting the rules in Chapters 823, 837, 840, 842, and 858 continue to exist. TWC finds that the chapters are needed and that the reasons for adopting the chapters continue to exist. TWC, therefore, readopts the rules in Chapter 823, Integrated Complaints, Hearings, and Appeals; Chapter 837, Apprenticeship Training Program; Chapter 840, WIOA Eligible Training Providers; Chapter 842, WIOA Nondiscrimination and Equal Opportunity; and Chapter 858, Procurement and Contract Management Requirements for Purchase of Goods and Services for Vocational Rehabilitation Services.

TRD-202404156

Les Trobman

General Counsel

Texas Workforce Commission

Filed: September 3, 2024

