

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Adoption of Rules Review & Readoption of Chapter 25

AGENDA REQUESTED: September 27, 2023

DATE OF REQUEST: September 8, 2023

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Gwen Ricco, Agenda Coordinator, (512) 239-2678

CAPTION: Docket No. 2022-1597-MIS. Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification. This review is in accordance with Texas Government Code, Section 2001.039, which requires state agencies to review and consider for readoption each of their rules every four years. The proposal was published in the January 20, 2023, issue of the *Texas Register* (48 TexReg 230). (Jody Koehler, Kathy Humphreys) (Non-Rule Project No. 2023-017-025-CE)

Craig Pritzlaff

Director

Brandy Brooks

Deputy Director

Gwen Ricco

Agenda Coordinator

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** September 8, 2023

Thru: Laurie Gharis, Chief Clerk
Kelly Keel, Interim Executive Director

From: Craig Pritzlaff, Director
Office of Compliance and Enforcement

Docket No.: 2023-1597-MIS

Subject: Commission Approval for Adoption of Rules Review and Readoption of Rules
Chapter 25, Environmental Testing Laboratory Accreditation and Certification
Rule Review of 30 TAC Chapter 25
Non-Rule Project No. 2023-017-025-CE

What the adopted action would do:

This action will approve the rules review of Chapter 25, and readopt the chapter.

This action constitutes a determination by the Texas Commission on Environmental Quality, after opportunity for public review and comment, that the initial reasons for adopting the rules of this chapter continue to exist.

Applicable law:

The review of the rules is authorized under the requirements of Texas Government Code, §2001.039; and the General Appropriations Act, Article IX, §9-10.13, 76th Texas Legislature, 1999, which require state agencies to review and consider for re adoption each of their rules every four years.

Reason rules are needed:

Executive director's staff conducted a review of the rules in Chapter 25 and determined that the reasons for adopting these rules continue to exist. The rules provide the requirements for accreditation and certification of environmental testing laboratories. Texas Water Code (TWC), §5.134, requires, with certain exceptions, all environmental testing laboratory data and analyses used in commission decisions regarding any matter under the commission's jurisdiction relating to permits or other authorizations, compliance matters, enforcement action, or remedial action must be from an accredited environmental testing laboratory. The rules are specifically required by TWC, §5.802 which requires the commission to adopt rules for the voluntary environmental testing laboratory accreditation program.

Rules found to be obsolete:

None.

Public comment:

A public hearing was not offered for this review. The comment period for the rules review closed on February 21, 2023. No comments were received.

Commissioners
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Affected agency program(s):

The program area responsible for implementing these rules is Office of Compliance and Enforcement.

Agency contacts:

D. Jody Koehler, Project Manager, Monitoring Division, (512) 239-1990
Kathy Humphreys, Staff Attorney, Environmental Law Division, (512) 239-3417
Gwen Ricco, Texas Register Rule/Agenda Coordinator, General Law Division, (512) 239-2678

Attachments:

Texas Register publication of Proposed Rule Review Notice

cc: Chief Clerk, 7 copies

or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://tceq.commentinput.com/>. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Non-Rule Project Number 2023-016-019-AD. Comments must be received by February 21, 2023. For further information, please contact Brad Patterson, Office of the Chief Clerk, at (512) 239-1201.

TRD-202300126

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: January 11, 2023



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 25 continue to exist.

Comments regarding suggested changes to the rules in Chapter 25 may be submitted but will not be considered for rule amendments as part of this review. Any such comments may be considered in a future rule-making action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 25. Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://tceq.commentinput.com/>. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Non-Rule Project Number 2023-017-025-CE. Comments must be received by February 21, 2023. For further information, please contact D. Jody Koehler, Monitoring Division, at (512) 239-1990.

TRD-202300127

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: January 11, 2023



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 30, Occupational Licenses and Registrations.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 30 continue to exist.

Comments regarding suggested changes to the rules in Chapter 30 may be submitted but will not be considered for rule amendments as part of this review. Any such comments may be considered in a future rule-making action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 30. Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://tceq.commentinput.com/>. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Non-Rule Project Number 2023-018-030-WS. Comments must be received by February 21, 2023. For further information, please contact Rebecca Moore, Project Manager, Occupational Licensing and Registration Division, at (512) 239-2463.

TRD-202300128

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: January 11, 2023



The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 25, Environmental Testing Laboratory Accreditation and Certification, as required by Texas Government Code, §2001.039. Texas Government Code, §2001.039, requires a state agency to review and consider for readoption, readoption with amendments, or repeal each of its rules every four years. The commission published its Notice of Intent to Review these rules in the January 20, 2023, issue of the *Texas Register* (48 TexReg 230).

The review assessed whether the initial reasons for adopting the rules continue to exist and the commission has determined that those reasons exist. The rules in Chapter 25 are required because they provide the requirements for accreditation and certification of environmental testing laboratories. Texas Water Code (TWC), §5.134 requires, with certain exceptions, all environmental testing laboratory data and analyses used in commission decisions regarding any matter under the commission's jurisdiction relating to permits or other authorizations, compliance matters, enforcement action, or remedial action must be from an accredited environmental testing laboratory. The rules are specifically required by TWC, §5.802 which requires the commission adopt rules for the voluntary environmental testing laboratory accreditation program.

The rules are necessary to ensure the data used by the commission in its decisions are of known and documented quality.

Public Comment

The public comment period closed on February 21, 2023. The commission did not receive comments on the rules review of this chapter.

As a result of the review the commission finds that the reasons for adopting the rules in 30 TAC Chapter 25 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039.

Texas Commission on Environmental Quality



ORDER ADOPTING RULES REVIEW AND READOPTING RULES

Docket No. 2022-1597-MIS
Non-Rule Project No. 2023-017-025-CE

On September 27, 2023, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 Texas Administrative Code (TAC) Chapter 25, Environmental Testing Laboratory Accreditation and Certification, in accordance with the requirements of Texas Government Code, § 2001.039, which requires a state agency to review and consider for re-adoption each of its rules every four years. The proposed Notice of Intention to Review was published in the January 20, 2023, issue of the *Texas Register* (48 TexReg 230).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 25 is hereby adopted. The rules and the preamble to the rules approved by the Commission are incorporated by reference in this Order as if set forth at length verbatim in this Order.

IF ANY PORTION OF THIS ORDER is for any reason held to be invalid by a court of competent jurisdiction, the invalidity of any portion shall not affect the validity of the remaining portions.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Jon Niermann, Chairman

Date Signed