

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** October 4, 2023

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

From: Erin E. Chancellor, Director
Office of Legal Services

Subject: Docket No. 2022-1689-MIS / Non-Rule Project No. 2023-030-003-LS
Revised Back-up for Commission Approval for Adoption of Rules Review
and Readoption of Rules
Chapter 3, Definitions
Rules Review of 30 Texas Administrative Code Chapter 3
Highlighted and Strikethrough Version of the Adoption Order

The attached order document for the Approval for Adoption of Rules Review and Readoption of Rules Chapter 3, Definitions, Non-Rule Project Number 2023-030-003-LS, has been revised to edit the Adoption Order. The information was amended to correct the date of the proposed Notice of Intention to Review from February 27, 2023, to February 24, 2023, and to include that an extension of the public comment period was published in the April 7, 2023, issue of the *Texas Register* (48 TexReg 1875). Original back-up materials for this non-rulemaking project were filed on September 22, 2023.

Attachments:
Adoption Order

cc: Chief Clerk, 7 copies

Texas Commission on Environmental Quality



ORDER ADOPTING RULES REVIEW AND READOPTING RULES

Docket No. 2022-1689-MIS
Non-Rule Project No. 2023-030-003-LS

On October 11, 2023, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 Texas Administrative Code (TAC) Chapter 3, Definitions, in accordance with the requirements of Texas Government Code, § 2001.039, which requires a state agency to review and consider for readoption each of its rules every four years. The proposed Notice of Intention to Review was published in the February 27 24, 2023, issue of the *Texas Register* (48 TexReg 1157) and an extension of the public comment period was published in the April 7, 2023, issue of the *Texas Register* (48 TexReg 1875).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 3 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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Adoption of Rules Review & Readoption of Chapter 3

AGENDA REQUESTED: October 11, 2023

DATE OF REQUEST: September 22, 2023

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

CAPTION: Docket No. 2022-1689-MIS. Consideration for the adoption of the rules review and readoption of 30 Texas Administrative Code Chapter 3, Definitions. 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 February 24, 2023, issue of the *Texas Register* (48 TexReg 1157); and an extension of the public comment period was published in the April 7, 2023, issue of the *Texas Register* (48 TexReg 1875). (Kathy Humphreys, Project Manager and Lead Attorney) (Non-Rule Project No. 2023-030-003-LS)

Erin E. Chancellor

Director

Charmaine K. Backens

Division Deputy Director

Gwen Ricco

Agenda Coordinator

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** September 22, 2023

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

From: Erin E. Chancellor, Director
Office of Legal Services

Docket No.: 2022-1689-MIS

Subject: Commission Approval for Adoption of Rules Review and Readoption of Rules
Chapter 3, Definitions
Rules Review of 30 Texas Administrative Code Chapter 3
Non-Rule Project No. 2023-030-003-LS

What the adopted action would do:

This action will approve the rules review of Chapter 3 and readopt the chapter.

This action constitutes a determination by the Texas Commission on Environmental Quality (TCEQ), 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 readoption each of their rules every four years.

Reason rules are needed:

Executive director's staff conducted a review of the rules in Chapter 3 and determined that the reasons for adopting these rules continue to exist. The rules in Chapter 3 are required to ensure various terms used in TCEQ's rules are consistently used.

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 April 14, 2023. No comments were received.

Affected agency program(s):

All program area(s) responsible for implementing these rules.

Agency contacts:

Kathy Humphreys, Project Manager/Staff Attorney, Environmental Law, (512) 239-3417
Gwen Ricco, Texas Register/Agenda Coordinator, General Law Division, (512) 239-2678

Attachments:

Texas Register publication of Proposed Rule Review Notice

Commissioners
Page 2
September 22, 2023

Re: Docket No. 2022-1689-MIS

cc: Chief Clerk, 7 copies

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 Housing and Community Affairs

Title 10, Part 1

The Texas Department of Housing and Community Affairs (the Department) files this notice of rule review for 10 TAC §1.10, Public Comment Procedures. The purpose of the proposed action is to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years.

At this time, the Department has determined that there continues to be a need for this rule, which is to have procedures for hearing public comment at Governing Board meetings. The Department has also determined that no changes to this rule as currently in effect are necessary. This rule proposed for readoption will be noted in the *Texas Register's* Review of Agency Rules section without publication of the text.

REQUEST FOR PUBLIC COMMENT. All comments or questions in response to this notice of rule review may be submitted in writing from February 24, 2023 through March 27, 2023. Written comments may be submitted to Brooke Boston, Texas Department of Housing and Community Affairs, at bboston@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m. Austin local time, March 27, 2023.

TRD-202300638
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Filed: February 9, 2023

Texas State Library and Archives Commission

Title 13, Part 1

The Texas State Library and Archives Commission (commission) files this notice of its intent to review Texas Administrative Code, Title 13, Part 1, Chapter 3, concerning the State Publications Depository Program, in accordance with Texas Government Code §2001.039.

The review will include, at a minimum, whether the reasons for adopting or readopting the rules continue to exist.

The commission will accept comments regarding the review. The comment period will last for 30 days following the publication of this notice in the *Texas Register*. Comments regarding this review may be submitted to Sarah Swanson, General Counsel, Texas State Library and Archives Commission, 1201 Brazos Street, P.O. Box 12927, Austin, Texas 78711-2927 or to rules@tsl.texas.gov with the subject line "Rule Review."

TRD-202300685
Sarah Swanson
General Counsel
Texas State Library and Archives Commission
Filed: February 14, 2023

Texas Commission on Environmental Quality

Title 30, Part 1

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 3, Definitions.

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 3 continue to exist.

Comments regarding suggested changes to the rules in Chapter 3 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 3. 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 2023-030-003-LS. Comments must be received by March 27, 2023. For further information, please contact Kathy Humphreys, Environmental Law Division, at (512) 239-3417.

TRD-202300689
Guy Henry
Acting Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: February 14, 2023

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 20, Rulemaking.

The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 3, Definitions, 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 February 24, 2023, issue of the *Texas Register* (48 TexReg 1157); and an extension of the public comment period was published in the April 7, 2023, issue of the *Texas Register* (48 TexReg 1875).

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 3 are required to ensure various terms used in TCEQ's rules are consistently used.

Public Comment

The public comment period closed on April 14, 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 3 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. 2022-1689-MIS
Non-Rule Project No. 2023-030-003-LS

On October 11, 2023, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 Texas Administrative Code (TAC) Chapter 3, Definitions, in accordance with the requirements of Texas Government Code, § 2001.039, which requires a state agency to review and consider for readoption each of its rules every four years. The proposed Notice of Intention to Review was published in the February 27, 2023, issue of the *Texas Register* (48 TexReg 1157).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 3 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