

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Adoption of Rules Review & Readoption of Chapter 80

AGENDA REQUESTED: August 2, 2023

DATE OF REQUEST: July 14, 2023

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

CAPTION: Docket No. 2022-1722-MIS. Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 80, Contested Case Hearings. 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 March 24, 2023, issue of the *Texas Register* (48 TexReg 1643). (Audrey Liter) (Non-Rule Project No. 2023-040-080-LS)



Acting Director,
Office of Legal Services



Acting Deputy Director,
Environmental Law Division



Agenda Coordinator

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** July 14, 2023

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

From: Charmaine Backens, Acting Director *CB*
Office of Legal Services

Docket No.: 2022-1722-MIS

Subject: Commission Approval for Adoption of Rules Review and Readoption of Rules
Chapter 80, Contested Case Hearings
Rules Review of 30 TAC Chapter 80
Non-Rule Project No. 2023-040-080-LS

What the adopted action would do:

This action will approve the rules review of Chapter 80, 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 readoption each of their rules every four years.

Reason rules are needed:

The Executive Director's (ED) staff conducted a review of the rules in Chapter 80 and determined that the reasons for adopting these rules continue to exist. The rules in Chapter 80 provide the procedures for contested case hearings regarding permit applications and enforcement actions, including action by the Commission on these items and requirements for challenging final actions of the Commission. ED staff identified non-substantive changes that may be addressed during future rulemakings.

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 24, 2023. No comments were received.

Affected agency program(s):

The program areas responsible for implementing these rules are the Environmental Law Division, Litigation Division, Office of Public Interest Counsel, Office of the Chief Clerk, and the Office of General Counsel.

Agency contacts:

Commissioners

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July 14, 2023

Re: Docket No. 2023-1722-MIS

Audrey Liter, Project Manager/Staff Attorney, Environmental Law Division, (512) 239-0684
Gwen Ricco, Texas Register/Agenda Coordinator, General Law Division, (512) 239-2678

Attachments:

Texas Register publication of Proposed Rule Review Notice

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 §2.204 Contents of a Quality Improvement Plan. 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 establish minimum requirements of a Quality Improvement Plan for an Eligible Entity facing termination or reduction of funding under 10 TAC §2.203. The Department has also determined that no changes to this rule as currently in effect are necessary. This rule proposed for re-adoption 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 March 24, 2023, through April 24, 2023. Written comments may be submitted to Gavin Reid, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941, or by email to greid@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m. Austin local time, April 24, 2023.

§2.204. Contents of a Quality Improvement Plan.

TRD-202301037
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Filed: March 10, 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 80, Contested Case Hearings.

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 re-adoption, re-adoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 80 continue to exist.

Comments regarding suggested changes to the rules in Chapter 80 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 80. 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 fax4808@tceq.texas.gov. 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 2023-040-080-LS. Comments must be received by April 24, 2023. For further information, please contact Clark Reeder, Environmental Law Division, at (512) 239-5771.

TRD-202301077

Guy Henry
Acting Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: March 15, 2023



Adopted Rule Reviews

Credit Union Department

Title 7, Part 6

The Credit Union Commission (Commission) has completed its review of Chapter 91, Subchapter K (relating to Credit Union Development Districts), of the Texas Administrative Code, Title 7, Part 6, consisting of §§91.2000, 91.2001, 91.2002, 91.2003, 91.2004, 91.2005, and 91.2006.

The rules were reviewed as a result of the Department's quadrennial rule review under Texas Government Code Section 2001.039.

Notice of the review of 7 TAC, Part 6, Chapter 91, Subchapter K, was published in the December 9, 2022, issue of the *Texas Register* (47 TexReg 8129). The Department received no comments on the notice of intention to review.

The Department hereby certifies that the adoption has been reviewed by legal counsel and found to be within the agency's legal authority to re-adopt.

TRD-202301054

The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 TAC Chapter 80, Contested Case Hearings, 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. The commission published its Notice of Intent to Review these rules in the March 24, 2023, issue of the *Texas Register* (48 TexReg 1643).

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 80 are required because they provide the procedures for contested case hearings regarding permit applications and enforcement actions, including action by the commission on these items and requirements for challenging final actions of the commission. The commission identified non-substantive changes that may be addressed during future rulemakings.

Public Comment

The public comment period closed on April 24, 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 80 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039. Changes to the rules

identified as part of this review process may be addressed in a separate rulemaking action, in accordance with the Texas Administrative Procedure Act.

Texas Commission on Environmental Quality



ORDER ADOPTING RULES REVIEW AND READOPTING RULES

Docket No. 2022-1722-MIS
Non-Rule Project No. 2023-040-080-LS

On August 2, 2023, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 TAC Chapter 80, Contested Case Hearings, 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 March 24, 2023, issue of the *Texas Register* (48 TexReg 1643).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 80 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