

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Adoption of Rules Review & Readoption of Chapter 39

AGENDA REQUESTED: April 12, 2024

DATE OF REQUEST: March 22, 2024

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

CAPTION: Docket No. 2022-1725-MIS. Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 39, Public Notice. 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 October 6, 2023, issue of the *Texas Register* (48 TexReg 5828). (Amy Browning) (Non Rule Project No. 2023-037-039-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:** March 22, 2024

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

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

Docket No.: 2022-1725-MIS

Subject: Commission Approval for Adoption of Rules Review and Readoption of Rules
Chapter 39, Public Notice
Rules Review of 30 Texas Administrative Code Chapter 39
Non-Rule Project No. 2023-037-039-LS

What the adopted action will do:

This action will approve the rules review of Chapter 39 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:

This adopted rule review is in accordance with Texas Government Code, §2001.039; and with 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:

Chapter 39 implements various state statutes and federal regulations that prescribe the requirements for public notice of and public participation regarding applications for certain air quality; water quality; municipal, industrial and hazardous waste; underground injection control; and radioactive materials permits.

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 November 6, 2023. No comments were received.

Affected agency programs:

The program areas responsible for implementing these rules are the Air Permits Division, Water Quality Division, Waste Permits Division, Radioactive Materials Division, Environmental Law Division, and Office of the Chief Clerk.

Agency contacts:

Amy Browning, Project Manager and Staff Attorney, Environmental Law Division, (512) 239-0891

Commissioners
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March 22, 2024

Re: Docket No. 2022-1725-MIS

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

Jessica Miller
Director, Rules Coordination Office
Department of State Health Services
Filed: September 27, 2023

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Health and Human Services Commission

Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for re adoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code:

- Chapter 303, Preadmission Screening and Resident Review (PASRR)
- Subchapter A General Provisions
- Subchapter B PASRR Screening and Evaluation Process
- Subchapter C Responsibilities
- Subchapter D Vendor Payment
- Subchapter E Habilitation Coordination
- Subchapter F Habilitative Service Planning for A Designated Resident
- Subchapter G Transition Planning
- Subchapter H Compliance Review
- Subchapter I MI Specialized Services

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 303, Preadmission Screening and Resident Review (PASRR), may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HHSRulesCoordinationOffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 303" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published, but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (texas.gov).

TRD-202303534
Jessica Miller
Director, Rules Coordination Office
Health and Human Services Commission
Filed: September 25, 2023

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Texas Commission on Environmental Quality

Title 30, Part 1

The Texas Commission on Environmental Quality (TCEQ) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 39, Public Notice.

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, TCEQ will assess whether the reasons for initially adopting the rules in Chapter 39 continue to exist.

Comments regarding suggested changes to the rules in Chapter 39 may be submitted but will not be considered for rule amendments as part of this review. Any such comments will be considered in a future rule-making action by TCEQ.

Submittal of Comments

TCEQ invites public comment on this preliminary review of the rules in Chapter 39. 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: www.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 2023-037-039-LS. Comments must be received by November 6, 2023. For further information, please contact Amy Browning, Environmental Law Division, at (512) 239-0891.

TRD-202303576
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: September 27, 2023

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The Texas Commission on Environmental Quality (TCEQ) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 50, Action on Applications and Other Authorizations.

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, TCEQ will assess whether the reasons for initially adopting the rules in Chapter 50 continue to exist.

Comments regarding suggested changes to the rules in Chapter 50 may be submitted but will not be considered for rule amendments as part of this review. Any such comments will be considered in a future rule-making action by TCEQ.

Submittal of Comments

TCEQ invites public comment on this preliminary review of the rules in Chapter 50. 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: www.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 2023-038-050-LS. Comments must be received by November 6, 2023. For further information, please contact Amy Browning, Environmental Law Division, at (512) 239-0891.

TRD-202303577
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: September 27, 2023

The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 39, Public Notice, 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 October 6, 2023 issue of the *Texas Register* (48 TexReg 5828).

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 39 are required because Chapter 39 implements various state statutes and federal regulations that prescribe the requirements for public notice of and public participation regarding applications for certain air quality; water quality; municipal, industrial and hazardous waste; underground injection control; and radioactive materials permits.

Public Comment

The public comment period closed on November 6, 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 39 continue to exist and readopts these sections in accordance with the requirements of TGC, §2001.039.

Texas Commission on Environmental Quality



ORDER ADOPTING RULES REVIEW AND READOPTING RULES

Docket No. 2022-1725-MIS

Rule Project No. 2023-037-039-LS

On April 12, 2024, the Texas Commission on Environmental Quality (Commission) approved the review of rules in 30 Texas Administrative Code (TAC) Chapter 39, Public Notice, 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 October 6, 2023, issue of the *Texas Register* (48 TexReg 5829).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 39 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