

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Adoption of Rules Review & Readoption of Chapter 336

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. 2023-0036-MIS. Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 336, Radioactive Substance Rules. 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 May 19, 2023, issue of the *Texas Register* (48 TexReg 2582). (Omar Lopez, Audrey Liter) (Non-Rule Project No. 2023-058-336-WS)



Director



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: Beth Seaton, Director
Office of Waste

Docket No.: 2023-0036-MIS

Subject: Commission Approval for Adoption of Rules Review and Readoption of Rules
Chapter 336, Radioactive Substance Rules
Rule Review of 30 TAC Chapter 336
Non-Rule Project No. 2023-058-336-WS

What the adopted action would do:

This action will approve the rules review of Chapter 336, 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:

Executive director's staff conducted a review of the rules in Chapter 336 and determined that the reasons for adopting these rules continue to exist. The rules in Chapter 336 are required to fulfill the duties placed on the commission by Texas Health and Safety Code, Chapter 401 and to enable Texas to maintain Agreement State status under the Atomic Energy Act of 1954.

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 June 20, 2023. No comments were received.

Affected agency program(s):

The program area responsible for implementing these rules is the Radioactive Materials Section of the Radioactive Materials Division.

Commissioners
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Re: Docket No. 2023-0036-MIS

Agency contacts:

Omar Lopez, Project Manager, Radioactive Materials Section, Radioactive Materials Division, (512) 239-2036
Audrey Liter, 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

◆ ◆ ◆
The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 336, Radioactive Substance Rules.

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 336 continue to exist.

Comments regarding suggested changes to the rules in Chapter 336 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 rulemaking action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 336. 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 2023-058-336-WS. Comments must be received by June 20, 2023. For further information, please contact Omar Lopez, Radioactive Materials Division, at (512) 239-2036.

TRD-202301674

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: May 9, 2023

◆ ◆ ◆ Adopted Rule Reviews

Texas Historical Commission

Title 13, Part 2

The Texas Historical Commission (hereinafter referred to as the Commission) adopts the review of Texas Administrative Code, Title 13, Part 2, for Chapter 30, Texas Heritage Trails Program.

This review was completed pursuant to Texas Government Code, §2001.039. The Commission has assessed whether the reason(s) for adopting or re-adopting this chapter continues to exist. The notice of a proposed review was published in the February 17, 2023, issue of the *Texas Register* (48 TexReg 969).

The Commission received no comments related to the review of the above-noted chapter.

As a result of the internal review, the Commission has determined that certain revisions are appropriate and necessary. The Commission finds that the reasons for initially adopting these rules continue to exist and re-adopts Chapter 30 in accordance with the requirements of Texas Government Code, §2001.039.

This concludes the review of 13 TAC Chapter 30.

TRD-202301646

Mark Wolfe
Executive Director
Texas Historical Commission
Filed: May 5, 2023

◆ ◆ ◆ State Board of Dental Examiners

Title 22, Part 5

The Texas State Board of Dental Examiners (Board) filed a Notice of Intent to Review to consider for re-adoption, revision, or repeal the rule chapters listed below, in their entirety, under Title 22, Part 5, of the Texas Administrative Code (TAC). This review was conducted in accordance with Texas Government Code §2001.039.

Rule Chapters Under Review

The Board reviewed the following rule chapters:

Chapter 100, General Provisions

Chapter 101, Dental Licensure

Chapter 102, Fees

Public Comments

A combined Notice of Intent to Review for all of the chapters listed above was published in the March 10, 2023, issue of the *Texas Register* (48 TexReg 1453). The public comment period closed on April 10, 2023. The Board did not receive any public comments.

Board Action

At its meeting on May 5, 2023, the Board readopted the following rule chapters, in their entirety and in their current form: 22 TAC, Chapter 100, General Provisions; Chapter 101, Dental Licensure; and Chapter 102, Fees. This concludes the review of these rule chapters in accordance with Texas Government Code §2001.039.

TRD-202301662

Lauren Studdard

General Counsel

State Board of Dental Examiners

Filed: May 8, 2023

◆ ◆ ◆ Texas Commission on Law Enforcement

Title 37, Part 7

Pursuant to the notice of proposed rule view published in the February 10, 2023, issue of the *Texas Register* (48 TexReg 720), the Texas Commission on Law Enforcement (Commission) has reviewed and considered for re-adoption of Texas Administrative Code, Title 37, Part 7, Chapters 211-229, in accordance with Texas Government Code, §2001.039.

No comments were received in response to the proposed rule review notice.

The Commission determined that the initial reasons for re-adoption continue to exist without changes. At the Commission's meeting on April 20, 2023, the Commission took final action to re-adopt Texas Administrative Code, Title 37, Part 7, Chapters 211-229 in its entirety and current form.

This concludes the review of Texas Administrative Code, Title 37, Part 7, Chapters 211-229.

TRD-202301624

The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 336, Radioactive Substance Rules, 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 May 19, 2023, issue of the *Texas Register* (48 TexReg 2582).

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 336 are required to fulfill the duties placed on the commission by Texas Health and Safety Code, Chapter 401 and to enable Texas to maintain Agreement State status under the Atomic Energy Act of 1954. The commission identified changes that may be addressed during future rulemakings.

Public Comment

The public comment period closed on June 20, 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 336 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. 2023-0036-MIS
Non-Rule Project No. 2023-058-336-WS

On October 11, 2023, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 TAC Chapter 336, Radioactive Substance Rules 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 May 19, 2023, issue of the Texas Register (48 TexReg 2582).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 336 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