

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** May 7, 2024

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

From: Ryan Vise, Director
External Relations Division

Subject: Docket No. 2023-0040-MIS / Rule Project No. 2023-059-005-AD
Commission Approval for Adoption of Rules Review and Readoption of Rules
Chapter 5, Advisory Committees and Groups
Rules Review of 30 Texas Administrative Code (TAC) Chapter 5
Highlighted Version of Adoption Notice and Adoption Order, and
Attachment of *Texas Register* Publication Correction

The attached revised back-up package for the Adoption of Rules Review and Readoption of Rules for 30 TAC Chapter 5, Rule Project Number 2023-059-005-AD, adds citations to include the correction to the proposed Rules Review *Texas Register* publication as published in the December 15, 2023, issue of the *Texas Register* (48 TexReg 7640). This includes an addition of this corrected citation in the adoption notice to be published in the *Texas Register*, and the adoption order.

Original back-up materials for this rulemaking project were filed on April 19, 2024.

Attachments:

Texas Register Correction of Error December 15, 2023 Publication
Chapter 5 Rule Review Adoption Notice
Adoption Order

cc: Chief Clerk, 7 copies

The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 5, Advisory Committees and Groups, as required by Texas Government Code (TGC), §2001.039. TGC, §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. TCEQ published its Notice of Intent to Review these rules in the November 24, 2023, issue of the *Texas Register* (48 TexReg 6921) and as corrected in the December 15, 2023, issue of the *Texas Register* (48 TexReg 7640).

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 5 are required because Chapter 5 provides the authority and procedures for the commission, executive director, and staff for creating advisory committees and groups for the purpose of receiving advice on specific matters. The chapter establishes requirements, procedures, and policies relating to the creation, duties, operation, and duration of advisory committees and groups.

The chapter is divided into three subchapters. Subchapter A establishes a common purpose and definitions for the other two subchapters. The subchapter includes a definition for “balanced representation” which, by statute, the commission, executive director, and staff are required to make reasonable attempts to achieve in the creation of advisory committees and groups. Subchapter B addresses advisory committees, which for the purposes of this subchapter are those committees created by the commission or by state law for the purpose of providing advice to the commission.

Subchapter C authorizes the executive director to create and consult with advisory groups.

The rules are needed to implement requirements of the Texas Water Code (TWC), §5.107, relating to Advisory Committees, Work Groups, and Task Forces, and particularly the additional authority and requirements added to TWC, §5.107 by House Bill (HB) 2912, §1.10, 77th Legislature, 2001. TWC, §5.107 authorizes TCEQ or the executive director to create and consult with advisory committees, work groups, or task forces, including committees, work groups or task forces for the environment, for public information, or for any other matter that the commission or the executive director may consider appropriate

Public Comment

The public comment period closed on January 3, 2024. 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 5 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. 2023-0040-MIS
Non-Rule Project No. 2023-059-005-AD

On May 10, 2024, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 Texas Administrative Code (TAC) Chapter 5, Advisory Committees and Groups 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 November 24, 2023, issue of the *Texas Register* (48 TexReg 6921) and as corrected in the December 15, 2023, issue of the *Texas Register* (48 TexReg 7640).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 5 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 5

AGENDA REQUESTED: May 10, 2024

DATE OF REQUEST: April 19, 2024

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

CAPTION: Docket No. 2023-0040-MIS. Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 5, Advisory Committees and Groups. 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 November 24, 2023, issue of the *Texas Register* (48 TexReg 6921). (Susan Palachek, Don Redmond) (Non-Rule Project No. 2023-059-005-AD)

Ryan Vise

Director

David Greer

Division Deputy Director

Gwen Ricco

Agenda Coordinator

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** April 19, 2024

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

From: Ryan Vise, Director
External Relations Division

Docket No.: 2023-0040-MIS

Subject: Commission Approval for Adoption of Rules Review and Readoption of Rules
Chapter 5, Advisory Committees and Groups
Rules Review of 30 TAC Chapter 5
Non-Rule Project No. 2023-059-005-AD

What the adopted action would do:

This action will approve the rules review of Chapter 5, 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 5 and determined that the reasons for adopting these rules continue to exist. Chapter 5 provides the authority and procedures for the commission, executive director, and staff for creating advisory committees and groups for the purpose of receiving advice on specific matters. The chapter establishes requirements, procedures, and policies relating to the creation, duties, operation, and duration of advisory committees and groups.

The chapter is divided into three subchapters. Subchapter A establishes a common purpose and definitions for the other two subchapters. The subchapter includes a definition for "balanced representation" which, by statute, the commission, executive director, and staff are required to make reasonable attempts to achieve in the creation of advisory committees and groups. Subchapter B addresses advisory committees, which for the purposes of this subchapter are those committees created by the commission or by state law for the purpose of providing advice to the commission. Subchapter C addresses advisory groups.

The rules are needed to implement requirements of Texas Water Code (TWC), §5.107, relating to Advisory Committees, Work Groups, and Task Forces, and particularly the additional authority and requirements added to TWC, §5.107 by House Bill (HB) 2912, §1.10, 77th Legislature, 2001. TWC, §5.107 authorizes the commission or the executive

Commissioners

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April 19, 2024

Re: Docket No. 2023-0040-MIS

director to create and consult with advisory committees, work groups, or task forces, including committees, work groups, or task forces for the environment, for public information, or for any other matter that the commission or the executive director may consider appropriate.

Public comment:

A public hearing was not offered for this review. The comment period for the rules review closed on January 3, 2023. No comments were received.

Affected agency program(s):

The program area(s) responsible for implementing these rules is the External Relations Division.

Agency contacts:

Susan Palachek, Project Manager, External Relations Division, (512) 239-3106

Don Redmond, Staff Attorney, Environmental Law Division, (512) 239-0612

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 Board of Nursing

Title 22, Part 11

In accordance with Government Code §2001.039, the Texas Board of Nursing (Board) files this notice of intention to review and consider for re-adoption, re-adoption with amendments, or repeal, the following chapter contained in Title 22, Part 11, of the Texas Administrative Code, pursuant to the 2022 rule review plan adopted by the Board at its April 2022 meeting.

Chapter 211. General Provisions, §§211.1 - 211.11

Chapter 217. Licensure, Peer Assistance, and Practice §§217.1 - 217.24

Chapter 219. Advanced Practice Nurse Education §§219.1 - 219.13

In conducting its review, the Board will assess whether the reasons for originally adopting this chapter continue to exist. Each section of this chapter will be reviewed to determine whether it is obsolete, whether it reflects current legal and policy considerations and current procedures and practices of the Board, and whether it is in compliance with Chapter 2001 of the Government Code (Administrative Procedure Act).

The public has thirty (30) days from the publication of this rule review in the *Texas Register* to comment and submit any response or suggestions. Written comments may be submitted to Dusty Johnston, General Counsel, Texas Board of Nursing, 313 Guadalupe, Suite 3-460, Austin, Texas 78701, by email to dusty.johnston@bon.texas.gov, or by fax to Dusty Johnston at (512) 305-8101. Any proposed changes to this chapter as a result of this review will be published separately in the Proposed Rules section of the *Texas Register* and will be open for an additional comment period prior to the final adoption or repeal by the Board.

TRD-202304199

James W. Johnston

General Counsel

Texas Board of Nursing

Filed: November 10, 2023



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 560, Denial or Refusal of License

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 560, Denial or Refusal of License, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HHSCRulesCoordinationOffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 560" 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-202304260

Jessica Miller

Director, Rules Coordination Office

Health and Human Services Commission

Filed: November 14, 2023



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 5, Advisory Committees and Groups.

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 86 continue to exist.

Comments regarding suggested changes to the rules in Chapter 86 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 86. 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 2023-059-005-AD. Comments must be received by January 3, 2024. For further information, please contact Susan Palachek, External Relations Division, at (512) 239-3106.

TRD-202304272

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: November 15, 2023



The Texas Commission on Environmental Quality (TCEQ) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 86, Special Provisions for 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 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 86 continue to exist.

Comments regarding suggested changes to the rules in Chapter 86 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 86. 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 2023-021-086-LS. Comments must be received by January 3, 2024. For further information, please contact Harrison Malley, Environmental Law Division, at (512) 239-1439.

TRD-202304273

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: November 15, 2023



The Texas Commission on Environmental Quality (TCEQ) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 217, Design Criteria for Domestic Wastewater Systems.

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, TCEQ will assess whether the reasons for initially adopting the rules in Chapter 217 continue to exist.

Comments regarding suggested changes to the rules in Chapter 217 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 rulemaking action.

Submittal of Comments

TCEQ invites public comment on this preliminary review of the rules in Chapter 217. 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 2023-013-217-OW. Comments must be received by January 3, 2024. For further information, please contact Shannon Gibson, Water Quality Division, at (512) 239-4284.

TRD-202304274

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: November 15, 2023



The Texas Commission on Environmental Quality (TCEQ) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 222, Subsurface Area Drip Dispersal Systems.

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, TCEQ will assess whether the reasons for initially adopting the rules in Chapter 222 continue to exist.

Comments regarding suggested changes to the rules in Chapter 222 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 rulemaking action.

Submittal of Comments

TCEQ invites public comment on this preliminary review of the rules in Chapter 222. 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 2023-042-222-OW. Comments must be received by January 3, 2024. For further information, please contact Shannon Gibson, Program Project Manager, Water Quality Division, at (512) 239-4284.

TRD-202304275

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: November 15, 2023



Adopted Rule Reviews

Texas State Library and Archives Commission

Title 13, Part 1

The Texas State Library and Archives Commission (commission) has completed its review of Texas Administrative Code, Title 13, Part 1,

The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 5, Advisory Committees and Groups, as required by Texas Government Code (TGC), §2001.039. TGC, §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. TCEQ published its Notice of Intent to Review these rules in the November 24, 2023, issue of the *Texas Register* (48 TexReg 6921).

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 5 are required because Chapter 5 provides the authority and procedures for the commission, executive director, and staff for creating advisory committees and groups for the purpose of receiving advice on specific matters. The chapter establishes requirements, procedures, and policies relating to the creation, duties, operation, and duration of advisory committees and groups.

The chapter is divided into three subchapters. Subchapter A establishes a common purpose and definitions for the other two subchapters. The subchapter includes a definition for “balanced representation” which, by statute, the commission, executive director, and staff are required to make reasonable attempts to achieve in the creation of advisory committees and groups. Subchapter B addresses advisory committees, which for the purposes of this subchapter are those committees created by the commission or by state law for the purpose of providing advice to the commission.

Subchapter C authorizes the executive director to create and consult with advisory groups.

The rules are needed to implement requirements of the Texas Water Code (TWC), §5.107, relating to Advisory Committees, Work Groups, and Task Forces, and particularly the additional authority and requirements added to TWC, §5.107 by House Bill (HB) 2912, §1.10, 77th Legislature, 2001. TWC, §5.107 authorizes TCEQ or the executive director to create and consult with advisory committees, work groups, or task forces, including committees, work groups or task forces for the environment, for public information, or for any other matter that the commission or the executive director may consider appropriate

Public Comment

The public comment period closed on January 3, 2024. 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 5 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. 2023-0040-MIS
Non-Rule Project No. 2023-059-005-AD

On May 10, 2024, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 TAC Chapter 5, Advisory Committees and Groups 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 November 24, 2023, issue of the *Texas Register* (48 TexReg 6921).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 5 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