

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Adoption of Rules Review & Readoption of Chapter 35

AGENDA REQUESTED: September 11, 2024

DATE OF REQUEST: August 23, 2024

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

CAPTION: Docket No. 2023-0041-MIS. Consideration for the adoption of the rules review and readoption of 30 Texas Administrative Code Chapter 35, Emergency and Temporary Orders and Permits; Temporary Suspensions or Amendment of Permit Conditions. This review is in accordance with Texas Government Code, §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 31, 2024, issue of the *Texas Register* (49 TexReg 3938). (Harrison Cole Malley) (Non-Rule Project No. 2023-064-035-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:** August 23, 2024

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

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

Docket No.: 2023-0041-MIS

Subject: Commission Approval for Adoption of Rules Review and Readoption of Rules
Chapter 35, Emergency and Temporary Orders and Permits; Temporary Suspensions or Amendment of Permit Conditions
Rules Review of 30 Texas Administrative Code Chapter 35
Non-Rule Project No. 2023-064-035-LS

What the adopted action would do:

This action will approve the rules review of Chapter 35 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 these 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 35 and determined that the reasons for adopting these rules continue to exist. The rules in Chapter 35 are needed to implement the commission's authority under Texas Water Code, Chapter 5, Subchapter L, to issue temporary or emergency mandatory, permissive, or prohibitory orders and by those orders to issue temporary permits or temporarily suspend or amend permit conditions.

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 July 1, 2024. No comments were received.

Affected agency program(s):

The program areas responsible for implementing these rules are the Office of Air, Office of Water, Office of Waste, Office of Compliance and Enforcement, and Offices of the Commissioners and Executive Director.

Commissioners
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Re: Docket No. 2023-0041-MIS

Agency contacts:

Harrison Cole Malley, Project Manager/Staff Attorney, Environmental Law Division, (512) 239-3417

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 (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 35, Emergency and Temporary Orders and Permits; Temporary Suspensions or Amendment of Permit Conditions, 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 May 31, 2024, issue of the *Texas Register* (49 TexReg 3938).

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 35 are required because the rules are needed to implement the commission's authority under Texas Water Code, Chapter 5, Subchapter L, to issue temporary or emergency mandatory, permissive, or prohibitory orders and by those orders to issue temporary permits or temporarily suspend or amend permit conditions.

Public Comment

The public comment period closed on July 1, 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 35 continue to exist and readopts these sections in accordance with the requirements of TGC, §2001.039.

The State Board for Educator Certification (SBEC) proposes the review of 19 Texas Administrative Code (TAC) Chapter 234, Military Service Members, Military Spouses, and Military Veterans, pursuant to Texas Government Code (TGC), §2001.039.

As required by TGC, §2001.039, the SBEC will accept comments as to whether the reasons for adopting 19 TAC Chapter 234 continue to exist.

The comment period on the review of 19 TAC Chapter 234 begins May 31, 2024, and ends July 1, 2024. A form for submitting public comments on the proposed rule review is available on the Texas Education Agency (TEA) website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_\(TAC\)/State_Board_for_Educator_Certification_Rule_Review/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/State_Board_for_Educator_Certification_Rule_Review/). The SBEC will take registered oral and written comments on the review of 19 TAC Chapter 234 during the July 19, 2024 meeting's public comment period in accordance with the SBEC board operating policies and procedures.

TRD-202402241

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Filed: May 20, 2024

The State Board for Educator Certification (SBEC) proposes the review of 19 Texas Administrative Code (TAC) Chapter 245, Certification of Educators from Other Countries, pursuant to Texas Government Code (TGC), §2001.039.

As required by TGC, §2001.039, the SBEC will accept comments as to whether the reasons for adopting 19 TAC Chapter 245 continue to exist.

The comment period on the review of 19 TAC Chapter 245 begins May 31, 2024, and ends July 1, 2024. A form for submitting public comments on the proposed rule review is available on the Texas Education Agency (TEA) website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_\(TAC\)/State_Board_for_Educator_Certification_Rule_Review/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/State_Board_for_Educator_Certification_Rule_Review/). The SBEC will take registered oral and written comments on the review of 19 TAC Chapter 245 during the July 19, 2024 meeting's public comment period in accordance with the SBEC board operating policies and procedures.

TRD-202402242

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Filed: May 20, 2024

Texas Appraiser Licensing and Certification Board

Title 22, Part 8

The Texas Appraiser Licensing and Certification Board (TALCB) files this notice of intention to review 22 TAC Chapter 155, Rules Relating to Standards of Practice, and Chapter 157, Rules Relating to Practice and Procedure. This review is undertaken pursuant to Government Code, §2001.039.

During the review process, TALCB may determine whether a specific rule requires amendments to refine TALCB's legal and policy considerations; whether the rules reflect current TALCB procedures; that no changes to a rule as currently in effect are necessary; or that a rule is no longer valid or applicable. Rules may also be combined or reduced for simplification and clarity when feasible. Any proposed amendments or

repeal of a rule or chapter as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period before final adoption or repeal. Final consideration of this rules review is expected at the TALCB meeting in November 2024.

Any questions or comments pertaining to this notice of intention to review should be directed to Kathleen Santos, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or emailed to general.counsel@talcb.texas.gov within 30 days of publication.

TRD-202402161

Kathleen Santos

General Counsel

Texas Appraiser Licensing and Certification Board

Filed: May 14, 2024

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 35, Emergency and Temporary Orders and Permits; Temporary Suspensions or Amendment of Permit Conditions.

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 35 continue to exist.

Comments regarding suggested changes to the rules in Chapter 35 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.

Submittal of Comments

TCEQ invites public comment on this preliminary review of the rules in Chapter 35. 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 2023-064-035-LS. Comments must be received by July 1, 2024. For further information, please contact Harrison Cole Malley, Staff Attorney/Project Manager, Environmental Law Division, at (512) 239-1439.

TRD-202402272

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: May 21, 2024

The Texas Commission on Environmental Quality (TCEQ) files this Notice of Intention to Review 30 Texas Administrative Code (TAC) Chapter 40, Alternative Dispute Resolution Procedure.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state

Texas Commission on Environmental Quality



ORDER ADOPTING RULES REVIEW AND READOPTING RULES

Docket No. 2023-0041-MIS
Non-Rule Project No. 2023-064-035-LS

On August 28, 2024, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 Texas Administrative Code (TAC) Chapter 35, Emergency and Temporary Orders and Permits; Temporary Suspensions or Amendment of Permit Conditions 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 May 31, 2024, issue of the *Texas Register* (49 TexReg 3938).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 35 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