

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Adoption of Rules Review & Readoption of Chapter 312

AGENDA REQUESTED: August 28, 2024

DATE OF REQUEST: August 9, 2024

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

CAPTION: Docket No. 2023-0087-MIS. Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 312, Sludge Use, Disposal, and Transportation. 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 31, 2024 issue of the *Texas Register* (Vol. 49 TexReg page 3939-40). (Shannon Gibson, Michael Parr) (Non-Rule Project No. 2023-090-312-OW)

Cari-Michel La Caille

Director

Robert Sadlier

Division Deputy Director

Gwen Ricco

Agenda Coordinator

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** August 9, 2024

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

From: Cari-Michel La Caille, Director
Office of Water

Docket No.: 2023-0087-MIS

Subject: Commission Approval for Adoption of Rules Review and Readoption of Rules
Chapter 312, Sludge Use, Disposal, and Transportation
Rules Review of 30 TAC Chapter 312
Non-Rule Project No. 2023-090-312-OW

What the adopted action would do:

This action will approve the rules review of Chapter 312, and readopt the chapter.

This action constitutes a determination by the Texas Commission on Environmental Quality (TCEQ), 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 rules under Chapter 312 provide for regulation of the processing, use, and disposal of sewage sludge, domestic septage, and water treatment sludge, as well as regulation of the transportation of these and other liquid wastes. Additionally, the rules in Chapter 312 provide that registrations or permits are required to engage in any of these activities.

The rules in Chapter 312 are needed to implement the provisions of Texas Health and Safety Code, Chapter 361 that govern the use and disposal of sewage sludge, water treatment sludge, and domestic septage and that govern the transportation of liquid wastes. The rules are also needed to protect the quality of the water in the state under Texas Water Code, Chapter 26.

Chapter 312 is divided into Subchapters A - G, which set forth general administrative provisions and fees; provisions for the beneficial use of sewage sludge and/or domestic septage; provisions for land disposal of sewage sludge and domestic septage; criteria for pathogen reduction and odor control for use or disposal of sewage sludge and domestic septage; guidelines for incineration of sewage sludge and domestic septage; provisions for disposal of water treatment sludge or its use as a soil amendment; and provisions for the transportation of sewage sludge, water treatment sludge, domestic septage, grease trap waste, grit trap waste, and chemical toilet waste (collectively termed "liquid wastes").

Commissioners

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Re: Docket No. 2023-0087-MIS

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 area(s) responsible for implementing these rules are organized under the Water Quality Division within the Office of Water, the Office of Compliance and Enforcement, and the Permitting and Registration Support Division within the Office of Waste.

Agency contacts:

Shannon Gibson, Project Manager, Water Quality Division, (512) 239-4284

Michael Parr, Staff Attorney, Environmental Law Division, (512) 239-0611

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

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 40 continue to exist.

Comments regarding suggested changes to the rules in Chapter 40 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 TCEQ.

Submittal of Comments

TCEQ invites public comment on this preliminary review of the rules in Chapter 40. 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 2023-049-040-AD. Comments must be received by July 1, 2024. For further information, please contact Kyle Lucas, Office of General Counsel, at (512) 239-0687.

TRD-202402273

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 279, Water Quality Certification.

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 279 continue to exist.

Comments regarding suggested changes to the rules in Chapter 279 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 TCEQ.

Submittal of Comments

TCEQ invites public comment on this preliminary review of the rules in Chapter 279. 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 2023-056-279-OW. Comments must be received by July 1, 2024. For further information, please contact Shannon Gibson, Project Manager, Office of Water, at (512) 239-4284.

TRD-202402274

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 Chapter 311, Watershed Protection 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 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 311 continue to exist.

Comments regarding suggested changes to the rules in Chapter 311 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 TCEQ.

Submittal of Comments

TCEQ invites public comment on this preliminary review of the rules in Chapter 311. 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 2023-053-311-OW. Comments must be received by July 1, 2024. For further information, please contact Shannon Gibson, Project Manager, Office of Water, at (512) 239-4284.

TRD-202402278

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 Chapter 312, Sludge Use, Disposal, and Transportation.

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 321 continue to exist.

Comments regarding suggested changes to the rules in Chapter 312 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 312. 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 2023-090-312-OW. Comments must be received by July 1, 2024. For further information, please contact Shannon Gibson, Program Project Manager, Office of Water, at (512) 239-4284.

TRD-202402275

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 Chapter 321, Control of Certain Activities by Rule.

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 321 continue to exist.

Comments regarding suggested changes to the rules in Chapter 321 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 321. Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 3087, 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 2023-089-321-OW. Comments must be received by July 1, 2024. For further information, please contact Shannon Gibson, Program Project Manager, Office of Water, at (512) 239-4284.

TRD-202402276
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: May 21, 2024

Texas Veterans Commission

Title 40, Part 15

Pursuant to Texas Government Code §2001.039, the Texas Veterans Commission (Commission) proposes to review and consider for re-adoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 40, Part 15, Texas Administrative Code: Chapter 461, Veterans Education.

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 reason for adopting a rule continue to exist. After reviewing this rule, the agency will readopt, readopt with amendments, or repeal this rule.

The Commission will accept comments for 30 days following the publication of this notice in the *Texas Register*. Comments pertaining to this rule review may be submitted in writing to Kathleen Cordova, General Counsel, Texas Veterans Commission, P.O. Box 12277, Austin, Texas 78711-2277, or faxed to (512) 475-2395, or emailed to rulemaking@tvc.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 461" in the subject line.

The text of the rule being reviewed will not be published, but may be found in Title 40, Part 15, of the Texas Administrative Code on the Secretary of State's website or through the Commission's website at www.tvc.texas.gov.

TRD-202402239
Kathleen Cordova
General Counsel
Texas Veterans Commission
Filed: May 20, 2024

Adopted Rule Reviews

Texas Health and Human Services Commission

Title 1, Part 15

The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 1, Part 15, of the Texas Administrative Code (TAC):

Chapter 377, Children's Advocacy Programs

Notice of the review of this chapter was published in the March 22, 2024, issue of the *Texas Register* (49 TexReg 1973). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 377 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 377. Any amendments, if applicable, to Chapter 377 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 1 TAC Chapter 377 as required by the Texas Government Code §2001.039.

TRD-202402209
Jessica Miller
Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: May 17, 2024

Texas Board of Nursing

Title 22, Part 11

In accordance with Government Code §2001.039, the Texas Board of Nursing (Board) filed a 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, in the March 19, 2024, issue of the *Texas Register* (49 TexReg 2096).

Chapter 220. Nurse Licensure Compact §220.1

Chapter 223. Fees §223.1, §223.2

Chapter 224. Delegation of Nursing Tasks by Registered Professional Nurses to Unlicensed Personnel for Clients with Acute Conditions or in Acute Care Environments §§224.1 - 224.11

Chapter 226. Patient Safety Pilot Programs on Nurse Reporting Systems §§226.1 - 226.7

The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 312, Sludge Use, Disposal, and Transportation, 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 3939-40).

The review assessed whether the initial reasons for adopting the rules continue to exist and TCEQ has determined that those reasons exist. The rules under Chapter 312 provide for regulation of the processing, use, and disposal of sewage sludge, domestic septage, and water treatment sludge, as well as regulation of the transportation of these and other liquid wastes. Additionally, the rules in Chapter 312 provide that registrations or permits are required to engage in any of these activities.

The rules in Chapter 312 are needed to implement the provisions of Texas Health and Safety Code, Chapter 361 that govern the use and disposal of sewage sludge, water treatment sludge, and domestic septage and that govern the transportation of liquid wastes. The rules are also needed to protect the quality of the water in the state under Texas Water Code, Chapter 26.

Chapter 312 is divided into Subchapters A - G, which set forth general administrative provisions and fees; provisions for the beneficial use of sewage sludge and/or domestic septage; provisions for land disposal of sewage sludge and domestic septage; criteria for pathogen reduction and odor control for use or disposal of sewage sludge and domestic septage; guidelines for incineration of sewage sludge and domestic septage; provisions for disposal of water treatment sludge or its use as a soil amendment; and provisions for the transportation of sewage sludge, water treatment sludge, domestic septage, grease trap waste, grit trap waste, and chemical toilet waste (collectively termed "liquid wastes").

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 312 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. 2023-0087-MIS
Non-Rule Project No. 2023-090-312-OW

On August 28, 2024, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 Texas Administrative Code (TAC) Chapter 312, Sludge Use, Disposal, and Transportation, 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 31, 2024 issue of the *Texas Register* (49 TexReg 3939-40).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 312 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