

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Adoption of Rules Review & Readoption of Chapter 7

AGENDA REQUESTED: March 28, 2024

DATE OF REQUEST: March 8, 2024

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

CAPTION: Docket No. 2023-0109-MIS. Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 7, Memoranda of Understanding. 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 September 8, 2023, issue of the *Texas Register* (48 TexReg 5074). (Kathy Humphreys, Diane Goss) (Non-Rule Project No. 2023-100-007-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 8, 2024

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

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

Docket No.: 2023-0109-MIS

Subject: Commission Approval for Adoption of Rules Review and Readoption of Rules
Chapter 7, Memoranda of Understanding.
Rules Review of 30 Texas Administrative Code (TAC) Chapter 7
Non-Rule Project No. 2023-100-007-LS

What the adopted action would do:

This action will approve the rules review of Chapter 7.

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:

This proposed rules 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:

Executive Director's staff conducted a review of the rules in Chapter 7 and determined that the reasons for adopting these rules continue to exist. The rules in 30 TAC Chapter 7 include the Memoranda of Understanding between TCEQ and other state agencies. The rules are necessary to memorialize agreements between TCEQ and other state agencies.

Rules found to be obsolete:

While the reasons for adopting Chapter 7 continue to exist, there are references to predecessor agencies to TCEQ and to state agencies that no longer exist. These references will be addressed in a future rulemaking. Additionally, certain sections reference Memoranda of Understanding between the Texas Natural Resource Conservation Commission (TCEQ's previous name) and other state agencies regarding the National Flood Insurance Program. These references will also be addressed in a future rulemaking.

Public comment:

A public hearing was not offered for this review. The comment period for the rules review closed on October 9, 2023. No comments were received.

Affected agency programs:

All program areas are responsible for implementing these rules.

Commissioners

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March 8, 2024

Re: Docket No. 2023-0109-MIS

Agency contacts:

Kathy Humphreys, Project Manager/Staff Attorney, Environmental Law Division, (512) 239-3417

Diane Goss, Project Manager/Staff Attorney, Environmental Law Division, (512) 239-5731

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 Education Agency

Title 19, Part 2

Texas Education Agency (TEA) proposes the review of 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter AA, Commissioner's Rules, pursuant to Texas Government Code, §2001.039. As required by Texas Government Code, §2001.039, TEA will accept comments as to whether the reasons for adopting Chapter 33, Subchapter AA, continue to exist.

The public comment period on the review begins September 8, 2023, and ends October 9, 2023. A form for submitting public comments on the proposed rule review is available on the TEA website at <https://tea.texas.gov/about-tea/laws-and-rules/commissioner-rules-tac/commissioner-of-education-rule-review>.

TRD-202303173

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: August 28, 2023



Department of State Health Services

Title 25, Part 1

The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), proposes to review and consider for re adoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 25, Part 1, of the Texas Administrative Code:

Chapter 289, RADIATION CONTROL

SUBCHAPTER C, TEXAS REGULATIONS FOR CONTROL OF RADIATION

SUBCHAPTER D, GENERAL

SUBCHAPTER E, REGISTRATION REGULATIONS

SUBCHAPTER F, LICENSE REGULATIONS

SUBCHAPTER G, REGISTRATION REGULATIONS

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 289, RADIATION CONTROL, 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 25 TAC Chapter 289" 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 25, Part 1, of the Texas Administrative Code or on the Secretary of State's website at [https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=25&pt=1&ch=289](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=25&pt=1&ch=289).

TRD-202303192

Jessica Miller

Director, Rules Coordination Office

Department of State Health Services

Filed: August 29, 2023



Texas Commission on Environmental Quality

Title 30, Part 1

The Texas Commission on Environmental Quality files this Notice of Intention to Review 30 Texas Administrative Code Chapter 7, Memoranda of Understanding.

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 7 continue to exist.

Comments regarding suggested changes to the rules in Chapter 7 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 review of the rules in Chapter 7. 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: 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 2023-100-007-LS. Comments must be received

by October 9, 2023. For further information, please contact Kathy Humphreys, Environmental Law Division, at (512) 239-3417.

TRD-202303189

Charmaine K. Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 29, 2023



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 60, Compliance History.

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 60 continue to exist.

Comments regarding suggested changes to the rules in Chapter 60 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 60. 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 2023-096-060-CE. Comments must be received by October 9, 2023. For further information, please contact Brandy Wright, Enforcement Division, at (512) 239-2530.

TRD-202303180

Gitanjali Yadav

Deputy Director, Litigation Division

Texas Commission on Environmental Quality

Filed: August 29, 2023



The Texas Commission on Environmental Quality files this Notice of Intention to Review 30 Texas Administrative Code Chapter 213, Edwards Aquifer.

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 213 continue to exist.

Comments regarding suggested changes to the rules in Chapter 213 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 review of the rules in Chapter 213. Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Qual-

ity, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: 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 2023-098-213-CE. Comments must be received by October 9, 2023. For further information, please contact Zachary King, Program Support and Environmental Assistance Division, at (512) 239-1931.

TRD-202303182

Charmaine K. Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 29, 2023



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 230, Groundwater Availability Certifications for Platting.

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 230 continue to exist.

Comments regarding suggested changes to the rules in Chapter 230 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 review of the rules in Chapter 230. 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: 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 2023-099-230-OW. Comments must be received by October 9, 2023. For further information, please contact Jade Rutledge, Water Availability Division, at (512) 239-4559.

TRD-202303186

Charmaine K. Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 29, 2023



The Texas Commission on Environmental Quality files this Notice of Intention to Review 30 Texas Administrative Code Chapter 307, Texas Surface Water Quality Standards.

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 307 continue to exist.

Comments regarding suggested changes to the rules in Chapter 307 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.

The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 7, Memoranda of Understanding, 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 September 8, 2023, issue of the *Texas Register* (48 TexReg 5074).

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 7 are required because the rules in 30 TAC Chapter 7 include the Memoranda of Understanding between TCEQ and various other state agencies. The rules are necessary to memorialize agreements between TCEQ and other state agencies.

The review resulted in a determination that references to predecessor agencies should be updated throughout the chapter. Additionally, certain sections may need to be updated to reflect the need for the Memoranda of Understanding that reference the National Flood Insurance Program minimum regulations.

Public Comment

The public comment period closed on October 9, 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 7 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. 2023-0109-MIS
Non-Rule Project No. 2023-100-007-LS

On March 28, 2024, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 Texas Administrative Code (TAC) Chapter 7, Memoranda of Understanding 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 September 8, 2023, issue of the *Texas Register* (48 TexReg 5073).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 7 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