

# 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 Health and Human Services Commission

### Title 1, Part 15

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 1, Part 15, of the Texas Administrative Code:

Chapter 351, Coordinated Planning and Delivery of Health and Human Services

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 re-adopt, re-adopt with amendments, or repeal its rules.

Comments on the review of Chapter 351, Coordinated Planning and Delivery of Health and Human Services, 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](mailto:HHSRulesCoordinationOffice@hhs.texas.gov). When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 351" 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The text of the chapter being reviewed will not be published but may be found in Title 1, Part 15, of the Texas Administrative Code on the Secretary of State's website at State Rules and Open Meetings ([www.sos.texas.gov](http://www.sos.texas.gov)).

TRD-202401371

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: April 2, 2024



Texas 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 8, Peer Assistance Programs for Impaired Professionals

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 re-adopt, re-adopt with amendments, or repeal its rules.

Comments on the review of Chapter 8, Peer Assistance Programs for Impaired Professionals, 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](mailto:HHSRulesCoordinationOffice@hhs.texas.gov). When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 8" 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 ([www.sos.texas.gov](http://www.sos.texas.gov)).

TRD-202401323

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: April 1, 2024



Texas Department of Insurance, Division of Workers' Compensation

### Title 28, Part 2

The Texas Department of Insurance, Division of Workers' Compensation (DWC) will review all sections in 28 Texas Administrative Code:

-Chapter 120 (Compensation Procedure--Employers);

-Chapter 122 (Compensation Procedure--Claimants); and

-Chapter 124 (Insurance Carriers: Notices, Payments, and Reporting).

This review complies with the requirements for periodic rule review under Texas Government Code §2001.039.

DWC will consider whether the reasons for initially adopting these rules continue to exist, and whether these rules should be repealed, re-adopted, or re-adopted with amendments.

Comments

To comment on this review, you must:

-Submit your written comments by 5:00 p.m., Central time, on May 13, 2024.

-Specify the rule to which your comment applies.

-Include any proposed alternative language.

Send your written comments or hearing request to RuleComments@tdi.texas.gov or to:

Legal Services, MC-LS

Texas Department of Insurance, Division of Workers' Compensation

P.O. Box 12050

Austin, Texas 78711-2050

DWC may consider any suggested repeals or amendments identified during this rule review in future rulemaking under Texas Government Code Chapter 2001 (Administrative Procedure).

TRD-202401369

Kara Mace

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Filed: April 2, 2024

## Adopted Rule Reviews

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), adopts the review of the chapter below in Title 25, Part 1, of the Texas Administrative Code (TAC):

Chapter 421, Health Care Information

Notice of the review of this chapter was published in the February 2, 2024, issue of the *Texas Register* (49 TexReg 571). HHSC received no comments concerning this chapter.

HHSC and DSHS have reviewed Chapter 421 in accordance with §2001.039 of the Texas Government Code, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist. The agencies determined that the original reasons for adopting rules in the chapter continue to exist and readopts Chapter 421 except:

§421.6, Acceptance of Discharge Reports and Correction of Errors;

§421.7, Certification of Discharge Reports;

§421.47, Data Fees;

§421.65, Acceptance of Event Files and Correction of Data Content Errors; §421.66, Certification of Compiled Event Data;

§421.67, Event Files--Records, Data Fields and Codes;

§421.75, Acceptance of Event Files and Correction of Data Content Errors; and

§421.76, Certification of Compiled Event Data.

The identified repeals and any amendments, if applicable, to Chapter 421 identified by HHSC and DSHS in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's and DSHS' review of 25 TAC Chapter 421 as required by the Texas Government Code §2001.039.

TRD-202401370

Jessica Miller

Director, Rules Coordination Office

Department of State Health Services

Filed: April 2, 2024

Texas Health and Human Services Commission

### Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 301, IDD-BH Contractor Administrator Functions

Notice of the review of this chapter was published in the January 26, 2024, issue of the *Texas Register* (49 TexReg 424). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 301 in accordance with §2001.039 of the Texas Government Code, 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 301. Any appropriate amendments or repeals to Chapter 301 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 26 TAC Chapter 301 as required by the Texas Government Code §2001.039.

TRD-202401309

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: March 27, 2024

Texas Commission on Environmental Quality

### Title 30, Part 1

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 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 September 8, 2023, issue of the *Texas Register* (48 TexReg 5073).

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.

TRD-202401359

Charmaine K. Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: April 1, 2024



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 70, Enforcement, 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 September 22, 2023, issue of the *Texas Register* (48 TexReg 5554).

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 70 are required because the rules implement TCEQ's enforcement authority under Texas Water Code (TWC), §7.002 of laws within the TCEQ's jurisdiction and to establish the procedures whereby enforcement matters are handled by the TCEQ. TCEQ is required to adopt rules necessary to carry out its powers and duties under the TWC and other laws of the state, and to adopt reasonable procedural rules to be followed in a TCEQ hearing (TWC, §5.103). TCEQ is required to adopt rules of practice stating the nature of all available formal and informal procedures (Texas Government Code, §2001.004). The rules also authorize the executive director to pursue an enforcement matter through court action (by referring the matter to the Texas Attorney General), as is contemplated in TWC, §5.230. Subchapter D, Criminal Enforcement Review, is needed to implement the Commission's authority under TWC, §7.203.

#### Public Comment

The public comment period closed on October 23, 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 70 continue to exist and readopts these sections in accordance with the requirements of TGC, §2001.039.

TRD-202401319

Gitanjali Yadav

Deputy Director, Litigation Division

Texas Commission on Environmental Quality

Filed: March 28, 2024



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 210, Use of Reclaimed Water 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 September 22, 2023, issue of the *Texas Register* (48 TexReg 5554).

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 210 are required because Chapter 210 provides for the use of reclaimed water. Subchapter A, General Provisions, applies to the reclaimed water producer, provider, and user. Subchapter B, General Requirements for the Production, Conveyance, and Use of

Reclaimed Water, establishes general requirements applicable to producers, providers, and users of reclaimed water. This subchapter also establishes requirements and specifications for transfer, storage, and irrigation using reclaimed water and design criteria of reclaimed water systems. Additionally, this subchapter establishes requirements and specifications necessary to minimize discharges of waste into or adjacent to waters in the state. Subchapter C, Quality Criteria and Specific Uses for Reclaimed Water, applies to the reclaimed water producer, provider, and user. This subchapter sets the specific uses, the quality standards, as well as the monitoring, recordkeeping, and reporting standards for reclaimed water. Subchapter D, Alternative and Pre-Existing Reclaimed Water Systems, contains provisions in the event a reclaimed water provider or user proposes to design, construct, or operate a reclaimed water system or to utilize reclaimed water in a manner other than authorized in these rules. Subchapter E, Special Requirements for Use of Industrial Reclaimed Water, establishes the applicable requirements for industrial reclaimed water use which may be used instead of potable water or raw water. Subchapter F, Use of Graywater and Alternative Onsite Water, establishes the applicable requirements for residential, commercial, industrial, institutional, and agricultural reuse of graywater and alternative onsite water which may be used instead of potable water for landscape irrigation, gardening, composting, foundation stabilization, toilet/urinal flushing, process water, dust control, and other similar uses.

The rules in Chapter 210 are needed to require reclaimed water quality criteria and design and operational requirements for the reuse of reclaimed water. The requirements encourage and facilitate the reuse of treated domestic wastewater effluent, treated industrial wastewater effluent, graywater, and alternative onsite water for beneficial purposes. The rules assist in the conservation of surface water and groundwater, ensure the protection of public health, protect the quality of surface water and groundwater, and help ensure an adequate supply of water for present and future needs. These sections do not affect any current requirements necessitating the need for a water right or amendment, if applicable to a particular reclaimed water use or activity.

Chapter 210 establishes requirements to protect the health of persons who might normally come into contact with reclaimed water; protect against adverse effects from reclaimed water should crops be irrigated with reclaimed water; and ensure that the conveyance, storage, and use of reclaimed water will not cause adverse effects to surface water, groundwater, and soil resources.

#### Public Comment

The public comment period closed on October 23, 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 210 continue to exist and readopts these sections in accordance with the requirements of TGC, §2001.039.

TRD-202401360

Charmaine K. Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: April 1, 2024



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 285, On-Site Sewage Facilities, 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 September 22, 2023, issue of the *Texas Register* (48 TexReg 5554).

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 285 are necessary to eliminate and prevent health hazards by regulating and establishing minimum standards for planning materials, construction, installation, alteration, repair, extension, operation, maintenance, permitting, and inspection of OSSFs.

Additionally, these rules provide the procedures for the designation of local governmental entities as authorized agents; the licensing of OSSF installers, designated representatives, site evaluators, and maintenance providers; and the registration of OSSF apprentices and maintenance technicians.

#### Public Comment

The public comment period closed on October 23, 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 285 continue to exist and readopts these sections in accordance with the requirements of TGC, §2001.039.

TRD-202401361

Charmaine K. Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: April 1, 2024



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 294, Priority Groundwater Management Areas, 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 22, 2023, issue of the *Texas Register* (48 TexReg 5554).

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 294 are required because Chapter 294 implements the requirements of Texas Water Code, Chapter 35, which allows TCEQ to identify, study, and designate priority groundwater management areas.

#### Public Comment

The public comment period closed on October 23, 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 294 continue to exist and readopts these sections in accordance with the requirements of TGC, §2001.039.

TRD-202401357

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: April 1, 2024



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 309, Domestic Wastewater Effluent Limitation and Plant Siting, 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 August 25, 2023, issue of the *Texas Register* (48 TexReg 4676).

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 309 are needed to provide effluent limitations for domestic wastewater in Subchapter A, location standards in Subchapter B, and land disposal of sewage effluent in Subchapter C. Subchapter A includes effluent quality limitations for treated domestic sewage which are required to maintain water quality in accordance with TCEQ surface water quality standards. Subchapter B establishes minimum standards for the location of domestic wastewater treatment facilities, including definitions, considerations for determining site selection, and unsuitable site characteristics. Subchapter C outlines the components of a required technical report for the design of the wastewater disposal system as well as the requirements of irrigation disposal systems and percolation disposal systems.

The rules are needed to provide regulations to support the state water quality management program regarding domestic wastewater treatment facilities to minimize possible contamination of ground and surface water and the possibility of exposing the public to nuisance or unhealthful conditions.

#### Public Comment

The public comment period closed on September 26, 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 309 continue to exist and readopts these sections in accordance with the requirements of TGC, §2001.039.

TRD-202401356

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: April 1, 2024



### Department of Aging and Disability Services

#### Title 40, Part 1

The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of Aging and Disability Services, adopts the review of the chapter below in Title 40, Part 1, of the Texas Administrative Code (TAC):

#### Chapter 7, DADS Administrative Responsibilities

Notice of the review of this chapter was published in the February 9, 2024, issue of the *Texas Register* (49 TexReg 722). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 7 in accordance with §2001.039 of the Texas Government Code, 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 rules in the chapter continue to exist and readopts Chapter 7 except for:

§7.6, Assignment and Use of Pooled Vehicles;

§7.23, Unauthorized Departures That May Have Unusual Consequences;

§7.34, Commercial Solicitation on Grounds;

§7.51, Purpose;  
§7.52, Application;  
§7.53, Definitions;  
§7.54, Procurement;  
§7.55, Accountability;  
§7.56, Provisions for All Contracts;  
§7.57, Additional Requirements for Specific Contracts;  
§7.58, Contract Extension or Renewal;  
§7.60, Protest and Appeal Procedures;  
§7.61, Contract Monitoring;  
§7.62, Remedies and Sanctions for All Contracts Except Construction Contracts;  
§7.63, Negotiation and Mediation;  
§7.64, References;  
§7.65, Distribution;  
§7.160, Distribution;  
§7.901, Purpose;  
§7.902, Applicability;  
§7.903, Definitions;  
§7.904, Prerequisites to Suit;  
§7.905, Sovereign Immunity;  
§7.906, Notice of Claim of Breach of Contract;  
§7.907, Agency Counterclaim;  
§7.908, Request for Voluntary Disclosure of Additional Information;  
§7.909, Duty to Negotiate;  
§7.910, Timetable;

§7.911, Conduct of Negotiation;  
§7.912, Settlement Approval Procedures;  
§7.913, Settlement Agreement;  
§7.914, Costs of Negotiation;  
§7.915, Request for Contested Case Hearing;  
§7.916, Mediation Timetable;  
§7.917, Conduct of Mediation;  
§7.918, Agreement to Mediate;  
§7.919, Qualifications and Immunity of the Mediator;  
§7.920, Confidentiality of Mediation and Final Settlement Agreement;  
§7.921, Costs of Mediation;  
§7.922, Settlement Approval Procedures;  
§7.923, Initial Settlement Agreement;  
§7.924, Final Settlement Agreement; and  
§7.925, Referral to the State Office of Administrative Hearings.

The identified repeals and any amendments, if applicable, to Chapter 7 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 40 TAC Chapter 7 as required by the Texas Government Code §2001.039.

TRD-202401368

Jessica Miller

Director, Rules Coordination Office

Department of Aging and Disability Services

Filed: April 2, 2024

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