Adopted Rule Reviews

Finance Commission of Texas

**Title 7, Part 1**

The Finance Commission of Texas (commission) has completed the rule review of Texas Administrative Code, Title 7, Part 1, Chapter 2, Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner, in its entirety. The rule review was conducted under Texas Government Code, §2001.039.

Notice of the review of 7 TAC Chapter 2 was published in the *Texas Register* on December 27, 2019 (44 TexReg 8343). The commission received no comments in response to that notice. The commission believes that the reasons for initially adopting the rules contained in this chapter continue to exist.

As a result of internal review by the Office of Consumer Credit Commissioner, the commission has determined that certain revisions are appropriate and necessary. Those proposed changes are published elsewhere in this issue of the *Texas Register*.

As a result of the rule review, the commission finds that the reasons for initially adopting the rules in 7 TAC Chapter 2 continue to exist and re-adopts this chapter in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202000630
Matthew Nance
Deputy General Counsel, Office of Consumer Credit Commissioner
Finance Commission of Texas
Filed: February 14, 2020

Public Utility Commission of Texas

**Title 16, Part 2**

The Public Utility Commission of Texas (commission) initiated a review of Chapter 21, Interconnection Agreements for Telecommunications Service Providers, under Texas Government Code §2001.039, *Agency Review of Existing Rules*. The commission's Chapter 21 Interconnection Agreement rules (Texas Administrative Code, Title 16, Part 2) establish procedures for approving interconnection agreements and resolving open issues under the Federal Telecommunications Act of 1996 (FTA) §252. The purpose of this review was to consider whether to re-adopt this Chapter. The notice of intention to review Chapter 21 was published in the *Texas Register* on October 25, 2019 (44 TexReg 6378). Project Number 49765 is assigned to this rule review project.

Having completed this review, the commission finds that the reasons for initially adopting Chapter 21 continue to exist and re-adopts Chapter 21.

The commission received no comments on this project.

There was no request for a public hearing.

The commission has completed the review of the rules in Chapter 21 under Texas Government Code §2001.039 and finds that the reason for adopting the rules in Chapter 21 continues to exist.

The commission readopts Chapter 21, Interconnection Agreements for Telecommunications Service Providers, under PURA §14.002 (West 2007 and Supp. 2017), which provides the Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and Texas Government Code §2001.039 (West 2017), which requires each state agency to review its rules every four years.

This agency hereby certifies that the rules in Chapter 21, as readopted, have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that Chapter 21, Interconnection Agreements for Telecommunications Service Providers, is hereby readopted under Texas Government Code §2001.039.

TRD-202000672
Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Filed: February 14, 2020

Texas Education Agency

Title 19, Part 2


Relating to the review of 19 TAC Chapter 157, Subchapters AA-EE, the TEA finds that the reasons for adopting Subchapters AA-EE continue to exist and readopts the rules. The TEA received no comments related to the review of Subchapters AA-EE. No changes are necessary as a result of the review.

This concludes the review of 19 TAC Chapter 157.

TRD-202000725
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: February 19, 2020

Texas State Board of Pharmacy

Title 22, Part 15

The Texas State Board of Pharmacy adopts the review of Chapter 283, (§§283.1 - 283.12), concerning Licensing Requirements for Pharmacists; Chapter 291, (§§291.31 - 291.36), concerning Pharmacies (Community Pharmacy (class A)); and Chapter 315, (§§315.1 - 315.14), concerning Controlled Substances, pursuant to the Texas Government Code §2001.039, regarding Agency Review of Existing Rules. The proposed review was published in the January 3, 2020, issue of the Texas Register (45 TexReg 161).

No comments were received.

The agency finds the reason for adopting the rule continues to exist.

TRD-202000685
Allison Vordenbaumen Benz, R.Ph., M.S.
Executive Director
Texas State Board of Pharmacy
Filed: February 14, 2020

Texas Commission on Environmental Quality

Title 30, Part 1

The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 TAC Chapter 7, Memorandum of Understanding, as required by Texas Government Code, §2001.039. Texas Government Code, §2001.039, requires a state agency to review and consider for readoption, readoption with amendments, or repeal each of its rules every four years. The commission published its Notice of Intent to Review these rules in the August 30, 2019, issue of the Texas Register (44 TexReg 4749).

The review assessed whether the initial reasons for adopting the rules continue to exist and the commission has determined that those reasons exist. The rules in Chapter 7 are required because the rules contain memorandum of understanding between the commission and various state agencies including the Texas Water Development Board, Texas Department of Transportation, Railroad Commission of Texas, and General Land Office. These memoranda of understanding are necessary to effectively conduct state business on a day-to-day basis.

The commission also determined that §7.101, Memorandum of Understanding between the Texas Department of Commerce and the Texas Natural Resource Conservation Commission, is obsolete, because §7.101(d) provides that the MOU between the Texas Natural Resource Conservation Commission and Texas Department of Commerce terminated on August 31, 1999, unless extended.

Public Comment

The public comment period closed on October 1, 2019. The commission did not receive comments on the rules review of this chapter.

As a result of the review the commission 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 Texas Government Code, §2001.039. Repeal of obsolete rules identified as part of this review process may be addressed in a separate rulemaking action, in accordance with the Texas Administrative Procedure Act.

TRD-202000678
Robert Martinez
Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: February 14, 2020

The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 TAC Chapter 36, Suspension or Adjustment of Water Rights During Drought or Emergency Water Shortage, as required by Texas Government Code, §2001.039. Texas Government Code, §2001.039, requires a state agency to review and consider for readoption, readoption with amendments, or repeal each of its rules every four years. The commission published its Notice of Intent to Review these rules in the September 13, 2019, issue of the Texas Register (44 TexReg 5153).

The commission has determined that the rules in Chapter 36 are no longer needed and may be repealed in a separate rulemaking action. The rules in Chapter 36 were adopted on April 11, 2012, effective May 3, 2012, to implement Texas Water Code (TWC), §11.053, which authorizes the commission to temporarily suspend and adjust water rights during times of drought or emergency shortage of water. After the commission issued a curtailment order in response to a senior priority call, the Texas Farm Bureau (Farm Bureau) challenged the rules in Travis County District Court (district court) in December 2012. The Farm Bureau asserted that the commission had exceeded its authority when it
adopted the rules because the rules did not follow the priority doctrine by exempting certain junior water rights from suspension or adjustment. The district court agreed with the Farm Bureau and declared the rules invalid. The district court judgment was stayed while TCEQ appealed. The 13th Court of Appeals affirmed the district court decision on April 2, 2015. The Texas Supreme Court denied TCEQ’s petition for review on February 19, 2016.

Although these rules are subject to the quadrennial review process under Texas Government Code, §2001.039, the rules in Chapter 36 are not needed because they have been invalidated by the courts and have been unenforceable since 2016. Furthermore, the rules are not needed because the commission has the authority to respond to senior priority calls under TCEQ’s general jurisdiction over the enforcement of water rights in TWC, §§5.013(a)(1) and specific authority to issue administrative orders for water right violations under TWC, §11.0842.

Public Comment

The public comment period closed on October 14, 2019. The commission did not receive comments on the rules review of this chapter.

As a result of the review the commission finds that the rules in 30 TAC Chapter 36 are no longer needed. Repeal of obsolete rules identified as part of this review process may be addressed in a separate rulemaking action, in accordance with the Texas Administrative Procedure Act.

TRD-202000680
Robert Martinez
Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: February 14, 2020

The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 TAC Chapter 70, Enforcement, as required by Texas Government Code, §2001.039. Texas Government Code, §2001.039, requires a state agency to review and consider for readoption, readoption with amendments, or repeal each of its rules every four years. The commission published its Notice of Intent to Review these rules in the August 30, 2019, issue of the Texas Register (44 TexReg 4749).

The review assessed whether the initial reasons for adopting the rules continue to exist and the commission has determined that those reasons exist. The rules in Chapter 70 are required because the rules implement the commission’s enforcement authority under Texas Water Code (TWC), §7.002, of laws within the commission’s jurisdiction and to establish the procedures whereby enforcement matters are handled by the commission. The commission 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 commission hearing (TWC, §5.103). The commission 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 implement the executive director’s authority to pursue an enforcement matter through court action (by referring the matter to the Texas Attorney General), as is contemplated in TWC, §5.230. Chapter 70, Subchapter D, Criminal Enforcement Review, implements the commission’s authority under TWC, §7.203.

Public Comment

The public comment period closed on October 1, 2019. The commission did not receive comments on the rules review of this chapter.

As a result of the review the commission 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 Texas Government Code, §2001.039.

TRD-202000631
Robert Martinez
Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: February 14, 2020

The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 TAC Chapter 285, On-Site Sewage Facilities, as required by Texas Government Code, §2001.039. Texas Government Code, §2001.039, requires a state agency to review and consider for readoption, readoption with amendments, or repeal each of its rules every four years. The commission published its Notice of Intent to Review these rules in the September 27, 2019, issue of the Texas Register (44 TexReg 5640).
The review assessed whether the initial reasons for adopting the rules continue to exist and the commission has determined that those reasons exist. The rules in Chapter 285 are required to implement Texas Health and Safety Code, Chapter 366 by providing a comprehensive regulatory program for the management of On-Site Sewage Facilities (OSSFs). These rules 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, and OSSF site evaluators; and the registration of OSSF apprentices.

Public Comment

The public comment period closed on October 28, 2019. The commission did not receive comments on the rules review of this chapter.

As a result of the review the commission finds that the reasons for adopting the rules in 30 TAC Chapter 285 continue to exist and reads these sections in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202000682
Robert Martinez
Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: February 14, 2020

The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 TAC Chapter 294, Priority Groundwater Management Areas, as required by Texas Government Code, §2001.039. Texas Government Code, §2001.039, requires a state agency to review and consider for readoption, readoption with amendments, or repeal each of its rules every four years. The commission published its Notice of Intent to Review these rules in the September 6, 2019, issue of the Texas Register (44 TexReg 4879).

The review assessed whether the initial reasons for adopting the rules continue to exist and the commission 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 the commission to identify, study, and designate priority groundwater management areas.

Public Comment

The public comment period closed on October 7, 2019. The commission did not receive comments on the rules review of this chapter.

As a result of the review the commission finds that the reasons for adopting the rules in 30 TAC Chapter 294 continue to exist and reads these sections in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202000634
Robert Martinez
Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: February 14, 2020