

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 Lottery Commission

Title 16, Part 9

The Texas Lottery Commission (Commission) files this notice of intent to review, and to consider for reoption, amendment, or repeal, the Commission's rules at Title 16 Texas Administrative Code Chapter 401, relating to Administration of State Lottery Act. The names and numbers of the rules contained in Chapter 401 are set forth below. This review is being conducted in accordance with the requirements of Texas Government Code §2001.039 (Agency Review of Existing Rules):

Subchapter A - Procurement

§401.101 - Lottery Procurement Procedures

§401.102 - Protests of the Terms of a Formal Competitive Solicitation

§401.103 - Protests of Contract Award

§401.104 - Contract Monitoring Roles and Responsibilities

§401.105 - Major Procurement Approval Authority, Responsibilities and Reporting

Subchapter B - Licensing of Sales Agents

§401.152 - Application for License

§401.153 - Qualifications for License

§401.155 - Expiration of License

§401.156 - Renewal of License

§401.157 - Provisional License

§401.158 - Suspension or Revocation of License

§401.159 - Summary Suspension of License

§401.160 - Standard Penalty Chart

Subchapter C - Practice and Procedure

§401.201 - Intent and Scope of Rules

§401.202 - Construction of Rules

§401.203 - Contested Cases

§401.205 - Initiation of a Hearing

§401.207 - Written Answer; Default Proceedings

§401.211 - Law Governing Contested Cases

§401.216 - Subpoenas, Depositions, and Orders to Allow Entry

§401.220 - Motion for Rehearing

§401.227 - Definitions

Subchapter D - Lottery Game Rules

§401.301 - General Definitions

§401.302 - Scratch Ticket Game Rules

§401.303 - Grand Prize Drawing Rule

§401.304 - Draw Game Rules (General)

§401.305 - "Lotto Texas" Draw Game Rule

§401.306 - Video Lottery Games

§401.307 - "Pick 3" Draw Game Rule

§401.308 - "Cash Five" Draw Game Rule

§401.309 - Assignability of Prizes

§401.310 - Payment of Prize Payments Upon Death of Prize Winner

§401.312 - "Texas Two Step" Draw Game Rule

§401.313 - Promotional Drawings

§401.314 - Retailer Bonus Programs

§401.315 - "Mega Millions" Draw Game Rule

§401.316 - "Daily 4" Draw Game Rule

§401.317 - "Powerball" Draw Game Rule

§401.318 - Withholding of Delinquent Child-Support Payments from Lump-sum and Periodic Installment Payments of Lottery Winnings in Excess of Six Hundred Dollars

§401.319 - Withholding of Child-Support Payments from Periodic Installment Payments of Lottery Winnings

§401.320 - "All or Nothing" Draw Game Rule

§401.321 - Scratch Tickets Containing Non-English Words

§401.324 - Prize Winner Election to Remain Anonymous

Subchapter E - Retailer Rules

§401.351 - Proceeds from Ticket Sales

§401.352 - Settlement Procedures

§401.353 - Retailer Settlements, Financial Obligations, and Commissions

§401.355 - Restricted Sales

§401.357 - Texas Lottery as Retailer

§401.360 - Payment of Prizes
 §401.361 - Required Purchases of Lottery Tickets
 §401.362 - Retailer's Financial Responsibility for Lottery Tickets Received and Subsequently Damaged or Rendered Unsaleable, for Winning Lottery Tickets Paid and for Lottery-Related Property
 §401.363 - Retailer Record
 §401.364 - Training
 §401.366 - Compliance with All Applicable Laws
 §401.368 - Lottery Ticket Vending Machines
 §401.370 - Retailer's Financial Responsibility for Lottery Tickets Received and Subsequently Stolen or Lost
 §401.371 - Collection of Delinquent Obligations for Lottery Retailer Related Accounts
 §401.372 - Display of License
 Subchapter F - ADA Requirements
 §401.401 - Definitions
 §401.402 - General Requirements
 §401.403 - Readily Achievable Barrier Removal
 §401.404 - Priority of ADA Compliance by Lottery Licensees
 §401.405 - Alternatives to Barrier Removal
 §401.406 - Future Alterations to a Lottery Licensed Facility
 §401.407 - Complaints Relating to Non-accessibility
 §401.408 - Requests for Hearings
 Subchapter G - Lottery Security
 §401.501 - Lottery Security

The Commission will assess whether the reasons for initially adopting each of these rules continue to exist. Each rule will be reviewed to determine whether it is obsolete, whether it reflects current legal and policy considerations, and whether it reflects current procedures of the Commission.

Written comments pertaining to this rule review may be submitted by mail to Deanne Rienstra, Special Counsel, at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at legal.input@lottery.state.tx.us.

The deadline for comments is 30 days after publication of this notice in the *Texas Register*. Proposed changes to any of these rules as a result of the rule review will be published as separate rulemaking proceedings in the Proposed Rules section of the *Texas Register* at a later date. Any proposed rule changes will be open for public comment prior to final adoption or repeal by the Commission, in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

TRD-202303810
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: October 13, 2023



The Texas Lottery Commission (Commission) files this notice of intent to review, and to consider for readoption, amendment, or repeal, the Commission's rules at Title 16 Texas Administrative Code Chap-

ter 402 relating to Charitable Bingo Operations Division. The names and numbers of the rules contained in Chapter 402 are set forth below. This review is being conducted in accordance with the requirements of Texas Government Code §2001.039 (Agency Review of Existing Rules):

Subchapter A - Administration
 §402.100 - Definitions
 §402.101 - Advisory Opinions
 §402.102 - Bingo Advisory Committee
 §402.103 - Training Program
 §402.104 - Delinquent Obligations
 Subchapter B - Conduct of Bingo
 §402.200 - General Restrictions on the Conduct of Bingo
 §402.201 - Prohibited Bingo Occasion
 §402.202 - Transfer of Funds
 §402.203 - Unit Accounting
 §402.204 - Prohibited Price Fixing
 §402.205 - Unit Agreements
 §402.210 - House Rules
 §402.211 - Other Games of Chance
 §402.212 - Promotional Bingo
 Subchapter C - Bingo Games and Equipment
 §402.300 - Pull-Tab Bingo
 §402.301 - Bingo Card/Paper
 §402.303 - Pull-tab or Instant Bingo Dispensers
 §402.321 - Card-Minding Systems--Definitions
 §402.322 - Card-Minding Systems--Site System Standards
 §402.323 - Card-Minding Systems--Device Standards
 §402.324 - Card-Minding Systems--Approval of Card-Minding Systems
 §402.325 - Card-Minding Systems--Licensed Authorized Organizations Requirements
 §402.326 - Card-Minding Systems--Distributor Requirements
 §402.327 - Card-Minding Systems--Security Standards
 §402.328 - Card-Minding Systems--Inspections and Restrictions
 §402.331 - Shutter Card Bingo Systems - Definitions
 §402.332 - Shutter Card Bingo Systems - Site System Standards
 §402.333 - Shutter Card Bingo Systems - Shutter Card Station and Customer Account Standards
 §402.334 - Shutter Card Bingo Systems - Approval of Shutter Card Bingo Systems
 §402.335 - Shutter Card Bingo Systems - Licensed Authorized Organization Requirements
 §402.336 - Shutter Card Bingo Systems - Distributor Requirements
 §402.337 - Shutter Card Bingo Systems - Security Standards
 §402.338 - Shutter Card Bingo Systems - Inspections and Restrictions

Subchapter D - Licensing Requirements

§402.400 - General Licensing Provisions

§402.401 - Temporary License

§402.402 - Registry of Bingo Workers

§402.403 - Licenses for Conduct of Bingo Occasions and to Lease Bingo Premises

§402.404 - License Classes and Fees

§402.405 - Temporary Authorization

§402.406 - Bingo Chairperson

§402.407 - Unit Manager

§402.408 - Designation of Members

§402.409 - Amendment for Change of Premises or Occasions Due to Lease Termination or Abandonment

§402.410 - Amendment of a License - General Provisions

§402.411 - License Renewal

§402.412 - Signature Requirements

§402.413 - Military Service Members, Military Veterans, and Military Spouses

§402.420 - Qualifications and Requirements for Conductor's License

§402.422 - Amendment to a Regular License to Conduct Charitable Bingo

§402.424 - Amendment of a License by Electronic Mail, Telephone or Facsimile

§402.442 - Amendment to a Commercial Lessor License

§402.443 - Transfer of a Grandfathered Lessor's Commercial Lessor License

§402.450 - Request for Waiver

§402.451 - Operating Capital

§402.452 - Net Proceeds

§402.453 - Request for Operating Capital Increase

Subchapter E - Books and Records

§402.500 - General Records Requirements

§402.501 - Charitable Use of Net Proceeds

§402.502 - Charitable Use of Net Proceeds Recordkeeping

§402.503 - Bingo Gift Certificates

§402.504 - Debit Card Transactions

§402.505 - Permissible Expense

§402.506 - Disbursement Records Requirements

§402.511 - Required Inventory Records

§402.514 - Electronic Fund Transfers

Subchapter F - Payment of Taxes, Prize Fees and Bonds

§402.600 - Bingo Reports and Payments

§402.601 - Interest on Delinquent Tax

§402.602 - Waiver of Penalty, Settlement of Prize Fees, Penalty and/or Interest

§402.603 - Bond or Other Security

§402.604 - Delinquent Purchaser

Subchapter G - Compliance and Enforcement

§402.700 - Denials; Suspensions; Revocations; Hearings

§402.701 - Investigation of Applicants for Licenses

§402.702 - Disqualifying Convictions

§402.703 - Audit Policy

§402.705 - Inspection of Premises

§402.706 - Schedule of Sanctions

§402.707 - Expedited Administrative Penalty Guideline

§402.708 - Dispute Resolution

§402.709 - Corrective Action

The Commission will assess whether the reasons for initially adopting each of these rules continue to exist. Each rule will be reviewed to determine whether it is obsolete, whether it reflects current legal and policy considerations, and whether it reflects current procedures of the Commission.

Written comments pertaining to this rule review may be submitted by mail to Deanne Rienstra, Special Counsel, at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at legal.input@lottery.state.tx.us.

The deadline for comments is 30 days after publication of this notice in the *Texas Register*. Proposed changes to any of these rules as a result of the rule review will be published as separate rulemaking proceedings in the Proposed Rules section of the *Texas Register* at a later date. Any proposed rule changes will be open for public comment prior to final adoption or repeal by the Commission, in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

TRD-202303811
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: October 13, 2023



The Texas Lottery Commission (Commission) files this notice of intent to review, and to consider for re adoption, amendment, or repeal, the Commission's rules at Title 16 Texas Administrative Code Chapter 403, relating to General Administration. The names and numbers of the rules contained in Chapter 403 are set forth below. This review is being conducted in accordance with the requirements of Texas Government Code §2001.039 (Agency Review of Existing Rules):

§403.101 - Public Information

§403.102 - Items Mailed to the Commission

§403.110 - Petition for Adoption of Rule Changes

§403.115 - Negotiated Rulemaking and Alternative Dispute Resolution

§403.201 - Definitions

§403.202 - Prerequisites to Suit

§403.203 - Sovereign Immunity

§403.204 - Notice of Claim of Breach of Contract

§403.205 - Agency Counterclaim

- §403.206 - Request for Voluntary Disclosure of Additional Information
- §403.207 - Duty to Negotiate
- §403.208 - Timetable
- §403.209 - Conduct of Negotiation
- §403.210 - Settlement Approval Procedures
- §403.211 - Settlement Agreement
- §403.212 - Costs of Negotiation
- §403.213 - Request for Contested Case Hearing
- §403.214 - Mediation Timetable
- §403.215 - Conduct of Mediation
- §403.216 - Qualifications and Immunity of the Mediator
- §403.217 - Confidentiality of Mediation and Final Settlement Agreement
- §403.218 - Costs of Mediation
- §403.219 - Settlement Approval Procedures
- §403.220 - Initial Settlement Agreement
- §403.221 - Final Settlement Agreement
- §403.222 - Referral to the State Office of Administrative Hearings
- §403.223 - Use of Assisted Negotiation Processes
- §403.301 - Historically Underutilized Businesses
- §403.401 - Use of Commission Motor Vehicles
- §403.501 - Custody and Use of Criminal History Record Information
- §403.600 - Complaint Review Process
- §403.700 - Employee Tuition Reimbursement
- §403.701 - Family Leave Pool
- §403.800 - Savings Incentive Program

The Commission will assess whether the reasons for initially adopting each of these rules continue to exist. Each rule will be reviewed to determine whether it is obsolete, whether it reflects current legal and policy considerations, and whether it reflects current procedures of the Commission.

Written comments pertaining to this rule review may be submitted by mail to Deanne Rienstra, Special Counsel, at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at legal.input@lottery.state.tx.us.

The deadline for comments is 30 days after publication of this notice in the *Texas Register*. Proposed changes to any of these rules as a result of the rule review will be published as separate rulemaking proceedings in the Proposed Rules section of the *Texas Register* at a later date. Any proposed rule changes will be open for public comment prior to final adoption or repeal by the Commission, in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

TRD-202303812
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: October 13, 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 readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 25, Part 1, of the Texas Administrative Code:

Chapter 104, Children Participating in Rodeos

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 104, Children Participating in Rodeos, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HHSCRulesCoordinationOffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 104" 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 State Rules and Open Meetings (texas.gov).

TRD-202303852
 Jessica Miller
 Director, Rules Coordination Office
 Department of State Health Services
 Filed: October 17, 2023



Health and Human Services Commission

Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code:

- Chapter 87, Ombudsman Services
- Subchapter A Office of The Ombudsman
- Subchapter B Ombudsman Managed Care Assistance
- Subchapter C Ombudsman for Children and Youth in Foster Care
- Subchapter D Ombudsman for Behavioral Health
- Subchapter E Intellectual or Developmental Disability Ombudsman

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 87, Ombudsman Services, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HHSCRulesCoordinationOffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 87" 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 (texas.gov).

TRD-202303851
Jessica Miller
Director, Rules Coordination Office
Health and Human Services Commission
Filed: October 17, 2023



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 331, LIDDA Service Coordination

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 331, LIDDA Service Coordination, 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 Chapter 331" 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 (texas.gov).

TRD-202303850
Jessica Miller
Director, Rules Coordination Office
Health and Human Services Commission
Filed: October 17, 2023



Adopted Rule Reviews

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 3, Definitions, as required by Texas Government Code, §2001.039. Texas Government Code, §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 February 24, 2023, issue of the *Texas Register* (48 TexReg 1157); and an extension of the public comment period was published in the April 7, 2023, issue of the *Texas Register* (48 TexReg 1875).

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 3 are required to ensure various terms used in TCEQ's rules are consistently used.

Public Comment

The public comment period closed on April 14, 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 3 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202303809
Charmaine K. Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: October 13, 2023



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 118, Control of Air Pollution Episodes, as required by Texas Government Code, §2001.039. Texas Government Code, §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 May 19, 2023, issue of the *Texas Register* (48 TexReg 2581).

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 118 were developed to implement state law regarding air pollution episodes. Specifically, the chapter establishes the actions and corresponding procedures necessary for the commission to take in response to generalized or localized air pollution episodes for the protection of human health or safety. Chapter 118 requires owners or operators of major stationary sources in El Paso, Galveston, Harris, Jefferson, and Orange Counties that emit 100 tons or more of any specified pollutant to prepare and maintain an emission reduction plan. In addition, the chapter requires TCEQ to prepare an air pollution episode contingency plan with detailed procedures for notification to the public and public officials, actions required by TCEQ and local air pollution control personnel, and transmission of information to contiguous states as may be necessary.

In addition to implementing state law, the rules in Chapter 118 are needed for compliance with federal law, specifically federal Clean Air Act §110(a)(2)(G) and 40 Code of Federal Regulations Part 51, Subpart H, relating to the requirements for a contingency plan regarding air pollution emergency episodes.

Public Comment

The public comment period closed on June 20, 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 118 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202303829
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: October 13, 2023



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code Chapter 292, Special Requirements for Certain Districts and Authorities, as required by Texas Government Code, §2001.039. Texas Government Code, §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 May 19, 2023, issue of the *Texas Register* (48 TexReg 2581).

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 292 are required because they contain general policy for receipt of independent management audits by districts and authorities specified in Chapter 292, Subchapter A. These rules are needed to implement state law including the Texas Constitution, Article III, §52 and Article XVI, §59 and Texas Water Code (TWC), Chapter 12, which provides for a continuing right of supervision of districts and authorities, and TWC, Chapter 49, which specifies that districts must adopt specific policies.

Public Comment

The public comment period closed on June 20, 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 292 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202303808

Charmaine K. Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: October 13, 2023



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 336, Radioactive Substance Rules, as required by Texas Government Code, §2001.039. Texas Government Code, §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 May 19, 2023, issue of the *Texas Register* (48 TexReg 2582).

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 336 are required to fulfill the duties placed on TCEQ by Texas Health and Safety Code, Chapter 401 and to enable Texas to maintain Agreement State status under the Atomic Energy Act of 1954. TCEQ identified changes that may be addressed during future rulemakings.

Public Comment

The public comment period closed on June 20, 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 336 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039. Changes to the 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-202303827

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: October 13, 2023

