

# 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

Department of State Health Services

### Title 25, 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 25, Part 1, of the Texas Administrative Code:

Chapter 135, Ambulatory Surgical Centers

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 135, Ambulatory Surgical Centers, 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 135" 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The text of the rule sections being reviewed will not be published, but may be found in Title 25, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings ([www.sos.texas.gov](http://www.sos.texas.gov)).

TRD-202400338

Jessica Miller

Director, Rules Coordination Office

Department of State Health Services

Filed: January 30, 2024



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 748, Minimum Standards for General Residential Operations

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 con-

tinue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 748, Minimum Standards for General Residential Operations, 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 748" 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-202400323

Jessica Miller

Director, Rules Coordination Office

Health and Human Services Commission

Filed: January 29, 2024



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 900, Health and Specialty Care System

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 900, Health and Specialty Care System, 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 900" 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-202400324  
Jessica Miller  
Director, Rules Coordination Office  
Health and Human Services Commission  
Filed: January 29, 2024



Department of Aging and Disability Services

**Title 40, Part 1**

The Texas Health and Human Services Commission (HHSC), on behalf of the Department of Aging and Disability Services, proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 40, Part 1, of the Texas Administrative Code:

Chapter 7, DADS Administrative Responsibilities

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 7, DADS Administrative Responsibilities, 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 7" 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 40, Part 1, 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-202400347  
Jessica Miller  
Director, Rules Coordination Office  
Department of Aging and Disability Services  
Filed: January 31, 2024



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 40, Part 1, of the Texas Administrative Code:

Chapter 96, Certification of Long-Term Care Facilities

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 96, Certification of Long-Term Care Facilities, 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 96" 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 40, Part 1, 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-202400336  
Jessica Miller  
Director, Rules Coordination Office  
Department of Aging and Disability Services  
Filed: January 30, 2024



**Adopted Rule Reviews**

Health and Human Services Commission

**Title 26, Part 1**

The 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 901, Volunteer and Community Engagement

Notice of the review of this chapter was published in the December 15, 2023, issue of the *Texas Register* (48 TexReg 7620). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 901 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 901. Any amendments or repeals to Chapter 901 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 901 as required by the Texas Government Code, §2001.039.

TRD-202400348  
Jessica Miller  
Director, Rules Coordination Office  
Health and Human Services Commission  
Filed: January 31, 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 112, Control of Air Pollution from Sulfur Compounds, as required by Texas Government Code (TGC), §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. TCEQ published its Notice of Intention to Review these rules in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4135).

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 30 TAC Chapter 112 are needed to control emissions of sulfur dioxide (SO<sub>2</sub>), hydrogen sulfide, sulfuric acid, and total reduced sulfur throughout the state. The rules in Subchapter A, Control of Sulfur Dioxide are approved by the United States Environmental Protection Agency (EPA) as a part of the State Implementation Plan (SIP) for the SO<sub>2</sub> National Ambient Air Quality Standard (NAAQS) in accordance with Federal Clean Air Act (FCAA), §109 and §110. The rules in Subchapter B Control of Hydrogen Sulfide are not part of the SIP

but were adopted under the State Air Control Plan required by Texas Health and Safety Code, §382.012. The rules in Subchapter C Control of Sulfuric Acid and Subchapter D Control of Total Reduced Sulfur were submitted to EPA to establish standards of performance to meet FCAA, §111(d) state plan requirements.

On October 5, 2022, the commission adopted the rules in Subchapter E Requirements in the Howard County Nonattainment Area, Subchapter F Requirements in the Hutchinson County Nonattainment Area, and Subchapter G Requirements in the Navarro County Nonattainment Area to meet SIP requirements for three 2010 SO<sub>2</sub> NAAQS nonattainment areas. The rulemaking (Rule Project No. 2021-035-112-AI) was submitted to EPA on October 24, 2022, for approval and inclusion in the SIP. EPA has not yet taken action on the submittal.

The review resulted in a determination that the emissions rate in §112.8(b) is obsolete but must be retained at this time. The provision specifically applies "to any solid fossil fuel-fired steam generator located in Milam County, which began operation prior to January 1, 1955." The emissions rate specified in §112.8(b) is 4.0 pounds per one million British thermal units (MMBtu), which is relaxed from the 3.0 pounds per MMBtu rate specified for all other sources in the state. The provision was established in a 1979 rulemaking as a result of a petition from Alcoa to allow relaxed SO<sub>2</sub> emission limitations for three units at its Rockdale aluminum smelter in Milam County based on the actual sulfur content of the lignite fuel the units used. The rulemaking and a SIP revision were submitted to EPA in 1995 and approved as part of the SIP effective November 22, 1996 (61 FR 49685, September 23, 1996).

The Rockdale smelter was idled in 2008 and permanently closed in 2017. Subsequent environmental restoration efforts were intended to transition the property back to primarily agricultural use, and Alcoa sold the property to developers in 2021. Since the source specified in §112.8(b) no longer exists, the provision should be repealed; however, because the provision is approved in the SIP, removal from the SIP would require a SIP revision and associated FCAA, §110(l) anti-backsliding demonstration. Until such action is taken, the rule must be retained.

In addition to the obsolete provision in §112.8(b), Chapter 112 includes several outdated references, including references to the former Texas Air Control Board (TACB), the TACB Modeling Section, and Regulation III. The rules in Chapter 112 that include these outdated references are not obsolete, but they should be updated to include current agency and regulatory references.

#### Public Comment

The public comment period closed on August 28, 2023. TCEQ 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 112 continue to exist and readopts these sections in accordance with the requirements of TGC, §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-202400314

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: January 26, 2024



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC)

Chapter 293, Water Districts, 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. TCEQ published its Notice of Intent to Review these rules in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4135).

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 293 are required because they are based on several statutory provisions: Texas Water Code (TWC), §49.011(b), which directs TCEQ to adopt rules establishing a procedure for public notice and hearing on applications for creation of a district; TWC, §5.235, which specifies applicable fees; Local Government Code, §395.080, which directs TCEQ to adopt rules on processing of applications for approval of impact fees; and TWC, §5.103, which provides TCEQ with authority to adopt any rules necessary to carry out its powers and duties under the provisions of TWC or other laws of this state. In addition, Chapter 293 implements TCEQ responsibilities and duties arising from the provisions of Article III, §52 and Article XVI, §59 of the Texas Constitution; TWC, Chapters 36, 49, 50, 51, 53, 54, 56, 57, 58, 59, 65, 66; and Local Government Code, Chapters 42, 375, and 395.

#### Public Comment

The public comment period closed on August 28, 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 293 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202400316

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: January 26, 2024



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 323, Waste Disposal Approvals, 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 July 14, 2023, issue of the *Texas Register* (48 TexReg 3928).

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 323 allow the executive director to develop a system for evaluating waste disposal facilities to determine if the design and operation merit state approval. The chapter provides conditions under which a person whose waste disposal facility attained an approved rating can erect signs to show that the facility has been approved, and establishes procedures used to evaluate waste disposal facilities after the rating system has been established.

#### Public Comment

The public comment period closed on August 14, 2023. TCEQ 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 323 continue to exist and readopts these sections in accordance with the requirements of TGC, §2001.039.

TRD-202400315

Charmaine Backens  
Deputy Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Filed: January 26, 2024



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 351, Regionalization, 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 July 14, 2023, issue of the *Texas Register* (48 TexReg 3929).

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 351 are based on Texas Water Code (TWC), Chapter 26, Subchapter C, Regional and Area-Wide Systems, which encourages and promotes the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state. Within any standard metropolitan statistical area in the state, TCEQ is authorized to implement this policy by defining areas of regional or area-wide systems and designating a system to serve the area defined. Pursuant to this authority, the commission adopted rules for the following eight regional areas: Northbelt, Rosillo Creek, East Fork Trinity River, Harris County Fresh Water Supply District Number 63, Cibolo Creek, Blackhawk, and Vidor Metropolitan Area.

The rules are needed as part of TCEQ's efforts to promote the development and use of regional and area-wide waste collection, treatment, and disposal systems.

#### Public Comment

The public comment period closed on August 14, 2023. The commission 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 351 continue to exist and readopts these sections in accordance with the requirements of TGC, §2001.039.

TRD-202400313  
Charmaine Backens  
Deputy Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Filed: January 26, 2024



Texas Public Finance Authority

#### Title 34, Part 10

The Texas Public Finance Authority (TPFA) has completed the review of the rules in 34 Texas Administrative Code, Part 10. The review was

conducted in accordance with Texas Government Code §2001.039 and included the following chapters in Title 34: Chapter 221, concerning the Distribution of Bond Proceeds; Chapter 223, concerning the Historically Underutilized Business Program; Chapter 225, concerning the Master Lease Purchase Program; and Chapter 227, concerning Administration.

Notice of the review of Chapters 221, 223, 225, and 227 was published in the October 6, 2023, issue of the *Texas Register* (48 TexReg 5830). No comments were received in response to the notice.

TPFA finds that the initial reasons for adopting the rules in 34 Texas Administrative Code, Part 10 continue to exist. The Authority, therefore, readopts 34 Texas Administrative Code Chapters 221, 223, 225, and 227 in accordance with the requirements of the Government Code, §2001.039.

This concludes TPFA's review of 34 TAC Chapters 221, 223, 225, and 227.

TRD-202400333  
Devyn F. Wills  
Assistant General Counsel  
Texas Public Finance Authority  
Filed: January 30, 2024



Texas Board of Pardons and Paroles

#### Title 37, Part 5

The Texas Board of Pardons and Paroles (Board) files this notice of readoption of Texas Administrative Code, Title 37, Public Safety and Corrections, Part 5, Chapter 147, Hearings. The review was conducted pursuant to Government Code, Section 2001.039. Notice of the Board's intention to review was published in the October 21, 2022, issue of the *Texas Register* (47 TexReg 7071).

As a result of the rule review, the Board has determined that the original justifications for initially adopting the rules in 37 TAC Chapter 147 continue to exist. The Board readopts §§147.1, 147.3, 147.5, 147.6, 147.24, and 147.26 with amendments as published in the Adopted Rules section of this issue of the *Texas Register*.

No comments on the proposed rule review were received.

This concludes the review of 37 TAC Chapter 147, Hearings.

TRD-202400257  
Bettie Wells  
General Counsel  
Texas Board of Pardons and Paroles  
Filed: January 24, 2024

