

# REVIEW OF AGENCY RULES

This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2)

notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the *Texas Register* office.

## Proposed Rule Reviews

Texas Commission on Environmental Quality

### Title 30, Part 1

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 15, Fleet Vehicle Management.

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 15 continue to exist.

Comments regarding suggested changes to the rules in Chapter 15 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 15. Written comments may be submitted to Paige Bond 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://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Non-Rule Project Number 2018-043-015-AS. Comments must be received by December 12, 2018. For further information, please contact Amber Kaskie, Human Resources and Staff Services Division, at (512) 239-0137.

TRD-201804697

David Timberger

Director, General Law Division

Texas Commission on Environmental Quality

Filed: October 29, 2018



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 21, Water Quality Fees.

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 com-

mission will assess whether the reasons for initially adopting the rules in Chapter 21 continue to exist.

Comments regarding suggested changes to the rules in Chapter 21 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 21. Written comments may be submitted to Ms. Kris Hogan, 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://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Non-Rule Project Number 2018-030-021-OW. Comments must be received by December 12, 2018. For further information, please contact Laurie Fleet, Water Quality Division, at (512) 239-5445.

TRD-201804710

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: October 30, 2018



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 86.

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 86 continue to exist.

Comments regarding suggested changes to the rules in Chapter 86 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 86. Written comments may be submitted to Ms. Kris Hogan, 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://www6.tceq.texas.gov/rules/ecomments/>. File size restric-

tions may apply to comments being submitted via the eComments system. All comments should reference Non-Rule Project Number 2018-044-086-LS. Comments must be received by December 12, 2018. For further information, please contact Robin Smith, Environmental Law Division, at (512) 239-0463.

TRD-201804711

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: October 30, 2018



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 326, Medical Waste Management.

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 326 continue to exist.

Comments regarding suggested changes to the rules in Chapter 326 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 the commission.

#### Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 326. Written comments may be submitted to Derek Baxter, 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://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Non-Rule Project Number 2018-045-326-WS. Comments must be received by December 12, 2018. For further information, please contact Charly Fritz, Waste Permits Division at (512) 239-2331.

TRD-201804713

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: October 30, 2018



### Texas State Library and Archives Commission

#### Title 13, Part 1

The Texas State Library and Archives Commission (TSLAC) files this notice of intent to review and consider for readoption, revision, or repeal the rules in Chapter 3 of the Texas Administrative Code, Title 13, relating to the State Publications Depository Program. This includes review of the following rules:

§3.1. Definitions

§3.2. Standard Requirements for State Publications in All Formats

§3.3. Standard Deposit and Reporting Requirements for State Publications in Physical Formats

§3.4. Standard Deposit and Reporting Requirements for State Publications that are Internet Publications

§3.5. Standard Exemptions for State Publications in All Formats

§3.6. Special Exemptions

§3.7. State Publications Contact Person

§3.8. Designation and Termination of Depository Library Status for State Publications in Physical Formats

This review is conducted pursuant to Texas Government Code §2001.039, which requires rule review every four years.

Elsewhere in this issue of the *Texas Register*, the TSLAC contemporaneously proposes amendments to §3.1, §3.2, and §3.3, and the repeal of §3.4.

Comments should be directed to Jelain Chubb, Director, Archives and Information Services, Box 12927, Austin, Texas, 78711-2927, or by fax (512) 463-2306. Written comments from the general public must be received within 30 days of the publication of this notice in the *Texas Register*.

TRD-201804705

Jelain Chubb

Director

Texas State Library and Archives Commission

Filed: October 30, 2018



### Adopted Rule Reviews

Texas Education Agency

#### Title 19, Part 2

The Texas Education Agency (TEA) adopts the review of 19 TAC Chapter 89, Adaptations for Special Populations, Subchapter AA, Commissioner's Rules Concerning Special Education Services; Subchapter BB, Commissioner's Rules Concerning State Plan for Educating English Learners; Subchapter CC, Commissioner's Rules Concerning Adult and Community Education; Subchapter DD, Commissioner's Rules Concerning High School Equivalency Programs; Subchapter EE, Commissioner's Rules Concerning the Communities In Schools Program; Subchapter GG, Commissioner's Rules Concerning Dropout Prevention Strategies; and Subchapter HH, Commissioner's Rules Concerning Education in a Juvenile Residential Facility, pursuant to the Texas Government Code, §2001.039. The TEA proposed the review of 19 TAC Chapter 89, Subchapters AA-EE, GG, and HH, in the March 9, 2018, issue of the *Texas Register* (43 TexReg 1473).

Relating to the review of 19 TAC Chapter 89, Subchapter AA, the TEA finds that the reasons for adopting Subchapter AA continue to exist and readopts the rules. The TEA received no comments related to the review of Subchapter AA. No changes are necessary as a result of the review.

Relating to the review of 19 TAC Chapter 89, Subchapter BB, the TEA finds that the reasons for adopting Subchapter BB continue to exist and readopts the rules. The TEA received no comments related to the review of Subchapter BB. Subchapter BB was recently revised to amend and clarify provisions relating to identifying, placing, serving, and reclassifying English learners to align the rules with current agency practice and make modifications to align with the proposed Every Student Succeeds Act State Plan, Title III, Part A. Revisions to §§89.1201, 89.1203, 89.1205, 89.1207, 89.1210, 89.1215, 89.1220, 89.1225, 89.1227-89.1230, 89.1233, 89.1235, 89.1240, 89.1245, 89.1250, 89.1265, 89.1267, and 89.1269 became effective July 15, 2018, and new §89.1226 will become effective July 1, 2019.

Relating to the review of 19 TAC Chapter 89, Subchapter CC, the TEA finds that the reasons for adopting Subchapter CC do not exist. The authority to administer adult education programs has been transferred from the TEA to the Texas Workforce Commission. The TEA received no comments related to the review of Subchapter CC. At a later date, the TEA plans to propose the repeal of §89.1311.

Relating to the review of 19 TAC Chapter 89, Subchapter DD, the TEA finds that the reasons for adopting Subchapter DD continue to exist and readopts the rules. The TEA received no comments related to the review of Subchapter DD. At a later date, the TEA plans to propose changes to the rules concerning high school equivalency programs.

Relating to the review of 19 TAC Chapter 89, Subchapter EE, the TEA finds that the reasons for adopting Subchapter EE continue to exist and readopts the rules. The TEA received no comments related to the review of Subchapter EE. At a later date, the TEA plans to propose changes to the funding formula for the Communities In Schools Program.

Relating to the review of 19 TAC Chapter 89, Subchapter GG, the TEA finds that the reasons for adopting Subchapter GG continue to exist and readopts the rule. The TEA received no comments related to the review of Subchapter GG. At a later date, the TEA plans to amend the rule to update cross references to statute.

Relating to the review of 19 TAC Chapter 89, Subchapter HH, the TEA finds that the reasons for adopting Subchapter HH continue to exist and readopts the rule. The TEA received no comments related to the review of Subchapter HH. At a later date, the TEA plans to amend the rule to update cross references to other administrative rules.

This concludes the review of 19 TAC Chapter 89.

TRD-201804724  
Cristina De La Fuente-Valadez  
Director, Rulemaking  
Texas Education Agency  
Filed: October 31, 2018



State Board for Educator Certification

### **Title 19, Part 7**

The State Board for Educator Certification (SBEC) adopts the review of Title 19, Texas Administrative Code (TAC), Chapter 241, Principal Certificate, pursuant to the Texas Government Code (TGC), §2001.039. The SBEC proposed the review of 19 TAC Chapter 241 in the August 24, 2018 issue of the *Texas Register* (43 TexReg 5544).

Relating to the review of 19 TAC Chapter 241, the SBEC finds that the reasons for the adoption continue to exist and readopts the rules. The SBEC received comments relating to the review of Chapter 241. The following is a summary of the public comments received and the responses.

**Comment:** A public school counselor commented that direct instruction for principal candidates include all aspects of a comprehensive school counseling program.

**Response:** The SBEC disagrees. The purpose of standards is to provide a framework for what a candidate should know and be able to do by a certain point in time. In order for standards to stay current to best practices, standards should remain broad and flexible to adjust as the needs change. Citing a specific resource or model is best suited for the test framework and test development.

This concludes the review of 19 TAC Chapter 241.

TRD-201804667  
Cristina De La Fuente-Valadez  
Director, Rulemaking  
State Board for Educator Certification  
Filed: October 24, 2018



The State Board for Educator Certification (SBEC) adopts the review of Title 19, Texas Administrative Code (TAC), Chapter 242, Superintendent Certificate, pursuant to the Texas Government Code, §2001.039.

The SBEC proposed the review of 19 TAC Chapter 242 in the August 24, 2018, issue of the *Texas Register* (43 TexReg 5544).

Relating to the review of 19 TAC Chapter 242, the SBEC finds that the reasons for the adoption continue to exist and readopts the rules. The SBEC received comments relating to the review of Chapter 242. The following is a summary of the public comments received and the responses.

#### *Comments in Support of Proposed Review*

**Comment:** The Texas Association of School Administrators and the Association of Texas Professional Educators stated they support maintaining the current rules for superintendent certification that require a superintendent to have classroom teaching experience or at least three creditable years of managerial experience in a public school district. Both associations opposed any alternative pathway to becoming a superintendent that might allow a candidate to become a superintendent without prior experience in educational leadership because the candidate would not have the necessary knowledge and experience to lead a district.

**Response:** The SBEC appreciates these comments and notes that the amendments preserve the requirements that a superintendent have classroom teaching experience or at least three creditable years of managerial experience in a public school district.

#### *Comments Against the Proposed Review*

**Comment:** An individual was upset over a personnel matter that occurred in a school district that led to what the commenter considered to be wrongful termination. The commenter felt the superintendent and school board were also responsible for the loss of commenter's teacher retirement benefit. As a result, the commenter wants to deny all superintendent certifications until pending allegations are resolved in personnel matters.

**Response:** While the SBEC appreciates this comment, the SBEC disagrees that it has jurisdiction to withhold renewal of an educator's certificate based on local district personnel matters that would not be violations of the SBEC rules. The SBEC does not have jurisdiction over appeals of educator contract disputes or local grievance processes.

#### *Additional Comment Received for the Proposed Review*

**Comment:** One commenter wanted the SBEC to require that direct instruction for superintendent candidates include all aspects of a comprehensive school counseling program.

**Response:** While the SBEC appreciates this comment, the SBEC disagrees that the rules should be amended to add such a requirement. In order for the standards for a superintendent certificate to stay current to best practices, the standards should remain broad and flexible to adjust as the needs change. It would be more appropriate to use the superintendent certification test framework and test development to ensure that superintendents fully understand school counseling programs and other subcategories of competence that fall within the broad standards listed in rule.

This concludes the review of 19 TAC Chapter 242.

TRD-201804668

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Filed: October 24, 2018



Texas Board of Pardons and Paroles

**Title 37, Part 5**

The Texas Board of Pardons and Paroles files this notice of readoption of 37 TAC, Part 5, Chapter 145, concerning parole process. The Board amended rules §§145.1 - 145.3, 145.9, 145.12 - 145.18, 145.20, and 145.27 to add capitalization to the titles throughout the rules. Rules 145.15 and 145.18 were amended to add language adopted by the Board of Pardons and Paroles in Board Policies BPP-POL. 145.200 Extraor-

dinary Vote (SB 45) and BPP-POL. 45.207 Extraordinary Vote (HB 1914) for consistency. The readoption of Chapter 145 is filed in accordance with the Board of Pardons and Paroles' Notice of Intent to Review published in the August 3, 2018, issue of the *Texas Register* (43 TexReg 5099). No public comments were received.

The assessment of Chapter 145 indicates that the original justifications for these rules continue to exist, and the Board is readopting the rules in accordance with Texas Government Code, §2001.039. This concludes the review of 37 TAC Chapter 145.

TRD-201804673

Bettie Wells

General Counsel

Texas Board of Pardons and Paroles

Filed: October 25, 2018

