

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 Veterans Commission

Title 40, Part 15

Pursuant to Texas Government Code §2001.039, the Texas Veterans Commission (commission) will review Title 40 Part 15 TAC Chapters 450, 451, 452, and 453. The commission will consider whether the reasons for initially adopting these rules continue to exist and determine whether these rules should be repealed, readopted, or readopted with amendments.

The text of the rule sections will not be published. The text of the rules may be found in the Texas Administrative Code, Title 40, Social Services and Assistance, Part 15.

Chapter 450. Veterans County Service Officers Certificate of Training

40 TAC §450.1

40 TAC §450.3

40 TAC §450.5

Chapter 451. Veterans County Service Officers Accreditation

40 TAC §451.1

40 TAC §451.3

Chapter 452. Administration General Provisions

40 TAC §452.1

40 TAC §452.2

40 TAC §452.3

40 TAC §452.4

40 TAC §452.5

40 TAC §452.6

40 TAC §452.7

40 TAC §452.8

Chapter 453. Historically Underutilized Business Program

40 TAC §453.1

The Commission will accept comments for 30 days following the publication of this notice in the *Texas Register*. Comments pertaining to this rule review may be submitted in writing to Cory Scanlon, General Counsel, Texas Veterans Commission, P.O. Box 12277, Austin, Texas 78711-2277, or faxed to (512) 475-2395, or emailed to rulemaking@tvc.texas.gov.

During the review process, the Commission may determine that a specific rule may need to be amended to further refine the Commission's legal and policy considerations; whether a rule reflects current Commission procedures; that no changes to a rule as currently in effect are necessary; or that a rule is no longer valid or applicable. Rules may also be combined or reduced for simplification and clarity when feasible. Any proposed changes to these chapters or subchapters because of this review will be published in the "Proposed Rules" section of the *Texas Register* and will be open for an additional 30-day public comment period prior to adoption by the Commission.

TRD-202301732

Cory Scanlon

General Counsel

Texas Veterans Commission

Filed: May 12, 2023

Adopted Rule Reviews

Texas Department of Housing and Community Affairs

Title 10, Part 1

The Texas Department of Housing and Community Affairs (the Department) adopts its rule review for 10 TAC §1.10, Public Comment Procedures. The proposed rule review was published in the February 24, 2023, issue of the *Texas Register* (48 TexReg 1157). The purpose of the action is to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years.

At this time, the Department has determined that there continues to be a need for this rule, which is to have procedures for hearing public comment at Governing Board meetings. This rule has been readopted which will be noted in the *Texas Register's* Review of Agency Rules section without publication of the text.

SUMMARY OF PUBLIC COMMENT. All comments in response to this notice of rule review were accepted from February 24, 2023, through March 27, 2023. Comment was received from one commenter, as described and responded to below. There will be a proposed rule change ensuing in response to public comment.

10 TAC §1.10(b)(4)

COMMENT: The commenter voiced concern over whether residents that are not in Austin are provided a chance for participation. They note that letters from public officials can be read into the Board meeting record, but that is the only allowance in the current rule for absentee comments. They recommend that the current rule regarding position cards be expanded to allow the public outside of Austin the chance to

submit position cards to be read into the record and provided suggested language in their comment. Texas Housers would prefer an option allowing a short, written statement submitted ahead of time to be read at board meetings, but understands the need to limit materials read into the record due to time concerns. TDHCA should consider allowing short statements of less than 100 to 200 words to be read into the record. A limit could be placed on reading statements at the meeting, either allowing all comments under a certain length or limiting comments if more than a certain number is received.

RESPONSE: The current process used fully comports with Texas Open Meetings Act requirements, and ensures that the opinions expressed in meetings are actually those of an individual. No changes to the rule are recommended.

10 TAC §1.10(b)(5)(B)

COMMENT: Commenter suggests that there is a need for proper consideration of all speakers' input in cases where many speakers show up for a single agenda item. Current language gives the Chair discretion to limit the number of speakers and length of presentations without any kind of assurance that speakers will have a chance to add new testimony if they have something to say. TDHCA's board information web page states that "If numerous people wish to comment on the same issue and in the same basic way, they may be asked to agree upon a smaller number of spokespersons." The phrase "same basic way" is vague and leaves too much up to the discretion of the Board Chair. Texas Housers suggests that the rule needs to better describe circumstances in which the Chair might limit attendees' ability to testify and better protect speakers' ability to contribute if they have something to say that could have an impact on Board decisions. Texas Housers provided suggested language in their comment.

RESPONSE: The current process used fully comports with Texas Open Meetings Act requirements, and no instance was cited by the commenter when the rule, as adopted, was alleged to have actually impeded public comment on an agenda item. No changes to the rule are recommended.

10 TAC §1.10(b)(6)(C)(i)

COMMENT: Texas Housers suggests that the rule needs to be more lenient for speakers who may not be familiar with board meeting requirements and still deserve a chance to participate and have their voices heard. Submitting documents ahead of time requires advance knowledge of board procedures that speakers understandably may not have, and the onus for document collection at board meetings should be on staff as opposed to speakers. Texas Housers provided suggested language on this proposed change.

RESPONSE: The current process used fully comports with Texas Open Meetings Act requirements, and no instance was cited by the commenter when the rule, as adopted, was alleged to have actually impeded public comment on an agenda item. No changes to the rule are recommended.

10 TAC §1.10(b)(6)(C)(iii)

COMMENT: Texas Housers commented that speakers should not be expected to provide hard copies to every single person in attendance. Not only is that unnecessary (hard copies can very easily be photographed or scanned and added to the meeting agenda/board book after the fact), but it is overly burdensome for speakers. Low-income speakers - the intended tenants of LIHTC properties - should not be expected to pay out of pocket for an unknown number of copies just so meeting attendees can hold the materials. A description of the materials by the speaker at the meeting, hard copies for all board members, and an after-the-fact supplement to the board book should

be enough to document materials for the public record. To comply with Tex. Gov't Code §2306.032(d), the rule could require hard copies for all members of the board plus one additional copy to be made available to any attendees that want to see it. This section of statute does not specify that one copy needs to be made available for each member of the public. Texas Housers provided suggested language on this proposed change.

RESPONSE: The current process used fully comports with Texas Open Meetings Act requirements and clearly complies with Tex. Gov't Code §2306.032(d). No changes to the rule are recommended.

10 TAC §1.10(c)

COMMENT: Texas Housers recommends that the language in this section be adjusted to reflect the correct usage of "translator" and "interpreter." Oral testimony is interpreted, written comment is translated. The language in TAC should also reflect the need for appropriately trained interpreters.

Texas Housers recommended proposed language on this item.

RESPONSE: The Department agrees with the suggested change to the rule regarding the use of the term "interpreter" rather than "translator," but finds no basis to prohibit bilingual speakers from providing interpretation assistance at meetings simply because they have not been specially "trained in interpretation practices." A rule change will be proposed.

Other

The following suggestion is not an existing section in this rule, but Texas Housers suggests that because public involvement in TDHCA decision-making is currently dominated by developers, the Department should add the requirement that properties notify tenants of upcoming board meetings where their property will be discussed to encourage tenant involvement. Texas Housers recommended proposed language on this item.

RESPONSE: No change to the rule is recommended.

This concludes the review of Chapter 1.

TRD-202301787

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Filed: May 15, 2023



The Texas Department of Housing and Community Affairs (the Department) adopts its rule review for 10 TAC §2.204 Contents of a Quality Improvement Plan. The proposed rule review was published in the March 24, 2023 issue of the *Texas Register* (48 TexReg 1643). The purpose of the action is to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years.

The Department has determined that there continues to be a need for this rule, which is to establish minimum requirements of a Quality Improvement Plan for an Eligible Entity facing termination or reduction of funding under 10 TAC §2.203. The Department has also determined that no changes to this rule as currently in effect are necessary. This rule has been readopted which will be noted in the *Texas Register's* Review of Agency Rules section without publication of the text.

SUMMARY OF PUBLIC COMMENT. Comments or questions about the rule review were accepted from March 24, 2023, through April 24, 2023. No comment was received.

Text of Rule as Currently in Effect for 10 TAC §2.204 Contents of a Quality Improvement Plan:

§2.204 Contents of a Quality Improvement Plan

(a) Capitalized words used herein have the meaning assigned in, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 6 of this title (relating to Community Affairs Programs), or assigned by federal or state law.

(b) If a QIP is required of an Eligible Entity under §2.203(f) of this chapter (relating to Termination and Reduction of Funding for CSBG Eligible Entities), it must comply with this section. While each QIP developed by an Eligible Entity is unique and must be responsive to the specific Deficiency identified, all of the items in this section, at a minimum, must be addressed.

(c) The QIP must set forth a timeline for resolution of each Deficiency. In general, issues should be fully resolved within 60 calendar days from the final determination letter issued to the Eligible Entity as referenced in §2.203(e) of this chapter.

(d) At minimum, the QIP must identify:

- (1) Specific actions that will be taken to address each Deficiency;
- (2) The date by when each Deficiency will be corrected; and
- (3) If applicable, an explanation for any Deficiency that cannot be corrected within 60 calendar days.

TRD-202301731
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Filed: May 12, 2023



Texas Education Agency

Title 19, Part 2

The State Board of Education (SBOE) adopts the review of 19 Texas Administrative Code (TAC) Chapter 157, Hearings and Appeals, pursuant to the Texas Government Code, §2001.039. The rules reviewed by the SBOE in 19 TAC Chapter 157 relate to hearings and appeals and are organized under the following subchapters: Subchapter A, General Provisions for Hearings Before the State Board of Education, and Subchapter D, Independent Hearing Examiners.

The SBOE proposed the review of 19 TAC Chapter 157, Subchapters A and D, in the March 3, 2023 issue of the *Texas Register* (48 TexReg 1317).

Relating to the review of 19 TAC Chapter 157, Subchapters A and D, the SBOE finds that the reasons for adopting Subchapters A and D continue to exist and readopts the rules. Changes to the rules in 19 TAC Chapter 157 Subchapter D, will be presented to the SBOE for consideration at its next SBOE meeting in response to the rule review and SBOE members.

The SBOE received no comments related to the review of Subchapter A and D.

This concludes the review of Chapter 157.

TRD-202301802
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: May 16, 2023



Texas Commission on Environmental Quality

Title 30, Part 1

The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 91, Alternative Public Notice and Public Participation Requirements for Specific Designated Facilities, 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. The commission published its Notice of Intent to Review these rules in the January 6, 2023, issue of the *Texas Register* (48 TexReg 57).

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 30 TAC Chapter 91 are required because the rules implement House Bill 2201, 79th Texas Legislature (2005), codified in part as new Texas Health and Safety Code, §382.0565 and Texas Water Code, §5.558. Chapter 91 implements reasonably streamlined processes for issuing permits required to construct a component of the FutureGen project designed to meet the FutureGen emissions profile. This chapter provides the commission the opportunity to use public meetings, informal conferences, or advisory committees to gather input of interested persons on an application subject to Chapter 91 when there is a significant degree of public interest. The permit processes authorized under this chapter are not subject to the requirements relating to a contested case hearing.

Public Comment

The public comment period closed on February 7, 2023. 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 91 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202301773
Guy Henry
Acting Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: May 12, 2023



The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 TAC Chapter 337, Dry Cleaner Environmental Response, 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. The commission published its Notice of Intent to Review these rules in the January 6, 2023, issue of the *Texas Register* (48 TexReg 57).

The review assessed whether the reasons for initially adopting the rules continue to exist, and the commission has determined that those reasons do continue to exist. The rules in Chapter 337 are required because Texas Health and Safety Code, Chapter 374 requires the agency to adopt rules necessary to administer and enforce that chapter to ensure protection of the environment and to provide for corrective action of releases from dry cleaning facilities. The rules fulfill this statutory mandate and include provisions which establish registration requirements and performance standards for dry cleaning facilities; provide for the use of risk-based corrective action to address releases from dry

cleaning facilities; and establish the criteria under which the agency may determine that corrective action is considered complete.

Public Comment

The public comment period opened on January 6, 2023, and closed on February 7, 2023. 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 initially adopting the rules in 30 TAC Chapter 337 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202301774

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: May 12, 2023



Texas Commission on Fire Protection

Title 37, Part 13

The Texas Commission on Fire Protection (commission) adopts the review of Texas Administrative Code, Title 37, Part 13, Chapter 425, concerning Fire Service Instructors. The review was conducted pursuant to Texas Government Code, Chapter 2001, §2001.039.

The commission received no comments on the proposed rule review, which was published in the December 23, 2022, issue of the *Texas Register* (47 TexReg 8760).

The commission has determined that the reasons for initially adopting the rule continue to exist and readopts the chapter without changes.

This concludes the review of Texas Administrative Code, Title 37, Part 13, Chapter 425.

TRD-202301771

Mike Wisko

Agency Chief

Texas Commission on Fire Protection

Filed: May 12, 2023

