

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

State Securities Board

Title 7, Part 7

The State Securities Board (Agency), beginning September 2023, will review and consider for re-adoption, revision, or repeal Chapter 109, Transactions Exempt from Registration; Chapter 111, Securities Exempt from Registration; and Chapter 139, Exemptions by Rule or Order, in accordance with Texas Government Code, §2001.039, which requires rule review every four years. The rules to be reviewed are located in Title 7, Part 7, of the Texas Administrative Code. The text of the rule sections will not be published. The text of these rules may be found in the Texas Administrative Code, Title 7, Part 7 or through the Board's website at www.ssb.texas.gov/texas-securities-act-board-rules.

The Agency has conducted a preliminary review of these chapters and determined the reasons for initially adopting the chapters continue to exist. The Agency's Board will consider, among other things, whether the initial factual, legal, and policy reasons for adoption of these rules continue to exist, whether these rules should be repealed, and whether any changes are needed. This notice to review has no effect on the chapters as they currently exist. Readopted chapters will be noted in a subsequent issue of the *Texas Register's* "Review of Agency Rules" section without publication of the text.

Any changes to the rules proposed by the Agency's Board after reviewing the rules and considering the comments received in response to this notice will appear in the "Proposed Rules" section of a subsequent issue of the *Texas Register*. Such changes will be open for public comment prior to the final adoption of any changes to the rule by the Agency in accordance with the requirements of the Administrative Procedure Act, Texas Government Code Annotated, Chapter 2001.

Comments or suggestions on the proposal must be in writing and will be accepted for 30 days following publication of this notice in the *Texas Register*. Written comments should be submitted to Marlene K. Sparkman, General Counsel, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167 or faxed to (512) 305-8336. Comments may also be submitted electronically to proposal@ssb.texas.gov. In order to be considered by the Board at adoption, comments must be received no later than 30 days following publication. Comments received will be reviewed and discussed in a future Board meeting.

Issued in Austin, Texas on August 23, 2023.

TRD-202303121

Travis J. Iles
Securities Commissioner
State Securities Board
Filed: August 23, 2023



Texas State Library and Archives Commission

Title 13, Part 1

The Texas State Library and Archives Commission (commission) files this notice of its intent to review Texas Administrative Code, Title 13, Part 1, Chapter 2, concerning General Policies and Procedures, consisting of Subchapter A, Principles and Procedures of the Commission, and Subchapter C, Grant Policies, in accordance with Texas Government Code §2001.039.

The review will include, at a minimum, an assessment of whether the reasons for adopting or re-adopting the rules continue to exist.

The commission will accept comments regarding the review. The comment period will last for 30 days following the publication of this notice in the *Texas Register*. Comments regarding this review may be submitted to Sarah Swanson, General Counsel, Texas State Library and Archives Commission, 1201 Brazos Street, P.O. Box 12927, Austin, Texas 78711-2927 or to rules@tsl.texas.gov with the subject line "Rule Review."

TRD-202303013
Sarah Swanson
General Counsel
Texas State Library and Archives Commission
Filed: August 16, 2023



The Texas State Library and Archives Commission (commission) files this notice of its intent to review Texas Administrative Code, Title 13, Part 1, Chapter 7, concerning Local Records, consisting of Subchapter A, Regional Historical Resource Depositories and Regional Research Centers; Subchapter B, Microfilming Standards for Local Governments; Subchapter C, Standards and Procedures for Management of Electronic Records; Subchapter D, Records Retention Schedules; Subchapter E, Electronic Filing and Recording; and Subchapter F, Records Storage Standards; in accordance with Texas Government Code §2001.039.

The review will include, at a minimum, an assessment of whether the reasons for adopting or re-adopting the rules continue to exist.

The commission will accept comments regarding the review. The comment period will last for 30 days following the publication of this notice

in the *Texas Register*. Comments regarding this review may be submitted to Sarah Swanson, General Counsel, Texas State Library and Archives Commission, 1201 Brazos Street, P.O. Box 12927, Austin, Texas 78711-2927 or to rules@tsl.texas.gov with the subject line "Rule Review."

TRD-202303014
Sarah Swanson
General Counsel
Texas State Library and Archives Commission
Filed: August 16, 2023



Texas Department of Transportation

Title 43, Part 1

Notice of Intention to Review

In accordance with Government Code, §2001.039, the Texas Department of Transportation (department) files this notice of intention to review Title 43 TAC, Part 1, Chapter 3, Public Information, Chapter 4, Employment Practices, Chapter 6, State Infrastructure Bank, Chapter 9, Contract and Grant Management, Chapter 12, Public Donation and Participation Program, Chapter 13, Materials Quality, Chapter 22, Use of State Property, Chapter 23, Travel Information, Chapter 25, Traffic Operations, and Chapter 29, Maintenance.

The department will accept comments regarding whether the reasons for adopting these rules continue to exist. Comments regarding this rule review may be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "Rule Review." The deadline for receipt of comments is 5:00 p.m. on *October 15, 2023*.

In accordance with Transportation Code, §201.811(a)(5), a person who submits comments must disclose, in writing with the comments, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

TRD-202303012
Becky Blewett
Deputy General Counsel
Texas Department of Transportation
Filed: August 16, 2023



Adopted Rule Reviews

Finance Commission of Texas

Title 7, Part 1

On behalf of the Finance Commission of Texas (commission), the Texas Department of Banking (department) has completed the review of Texas Administrative Code, Title 7, Part 1, Chapter 6 (Banking Development Districts), §§6.1 - 6.6, in its entirety.

Notice of the review of Chapter 6 was published in the July 14, 2023, issue of the *Texas Register* (48 TexReg 3927). No comments were received in response to the notice.

The commission believes the reasons for initially adopting Chapter 6 continue to exist. However, certain revisions may be appropriate. Proposed amendments, if any, will be published in the *Texas Register* at a later date.

The commission finds that the reasons for initially adopting these rules continue to exist and readopts these sections in accordance with the requirements of the Government Code, §2001.039.

TRD-202303053
Marcus Adams
Acting General Counsel
Finance Commission of Texas
Filed: August 18, 2023



Texas Department of Banking

Title 7, Part 2

On behalf of the Finance Commission of Texas (commission), the Texas Department of Banking (department) has completed the review of Texas Administrative Code, Title 7, Part 2, Chapter 15 (Corporate Activities), comprised of Subchapter A (§§15.1 - 15.7 and §§15.9 - 15.12); Subchapter B (§15.23 and §15.24); Subchapter C (§§15.41 - 15.44); Subchapter E (§15.81); Subchapter F (§§15.101 - 15.111 and §§15.113 - 15.117); and Subchapter G (§15.121 and §15.122).

Notice of the review of Chapter 15 was published in the July 14, 2023, issue of the *Texas Register* (48 TexReg 3927). No comments were received in response to the notice.

The commission believes the reasons for initially adopting Chapter 15 continue to exist. However, certain revisions may be appropriate. Proposed amendments, if any, will be published in the *Texas Register* at a later date.

The commission finds that the reasons for initially adopting these rules continue to exist and readopts these sections in accordance with the requirements of the Government Code, §2001.039.

TRD-202303049
Marcus Adams
Acting General Counsel
Texas Department of Banking
Filed: August 18, 2023



On behalf of the Finance Commission of Texas (commission), the Texas Department of Banking (department) has completed the review of Texas Administrative Code, Title 7, Part 2, Chapter 17 (Trust Company Regulation), comprised of Subchapter A (§§17.2 - 17.5) and Subchapter B (§§17.21 - 17.23).

Notice of the review of Chapter 17 was published in the July 14, 2023, issue of the *Texas Register* (48 TexReg 3927). No comments were received in response to the notice.

The commission believes the reasons for initially adopting Chapter 17 continue to exist. However, certain revisions may be appropriate. Proposed amendments, if any, will be published in the *Texas Register* at a later date.

The commission finds that the reasons for initially adopting these rules continue to exist and readopts these sections in accordance with the requirements of the Government Code, §2001.039.

TRD-202303050
Marcus Adams
Acting General Counsel
Texas Department of Banking
Filed: August 18, 2023



On behalf of the Finance Commission of Texas (commission), the Texas Department of Banking (department) has completed the review of Texas Administrative Code, Title 7, Part 2, Chapter 19 (Trust Company Loans and Investments), comprised of Subchapter B (§19.22); and Subchapter C (§19.51).

Notice of the review of Chapter 19 was published in the July 14, 2023, issue of the *Texas Register* (48 TexReg 3928). No comments were received in response to the notice.

The commission believes the reasons for initially adopting Chapter 19 continue to exist. However, certain revisions may be appropriate. Proposed amendments, if any, will be published in the *Texas Register* at a later date.

The commission finds that the reasons for initially adopting these rules continue to exist and readopts these sections in accordance with the requirements of the Government Code, §2001.039.

TRD-202303051

Marcus Adams

Acting General Counsel

Texas Department of Banking

Filed: August 18, 2023



On behalf of the Finance Commission of Texas (commission), the Texas Department of Banking (department) has completed the review of Texas Administrative Code, Title 7, Part 2, Chapter 21 (Trust Company Corporate Activities), comprised of Subchapter A (§§21.1 - 21.7 and §§21.9 - 21.12); Subchapter B (§21.23 and §21.24); Subchapter C (§21.31 and §21.32); Subchapter D (§§21.41 - 21.44); Subchapter E (§21.51); Subchapter F (§§21.61 - 21.64; §§21.67 - 21.70 and §§21.72 - 21.76); and Subchapter G (§21.91 and §21.92).

Notice of the review of Chapter 21 was published in the July 14, 2023, issue of the *Texas Register* (48 TexReg 3928). No comments were received in response to the notice.

The commission believes the reasons for initially adopting Chapter 21 continue to exist. However, certain revisions may be appropriate. Proposed amendments, if any, will be published in the *Texas Register* at a later date.

The commission finds that the reasons for initially adopting these rules continue to exist and readopts these sections in accordance with the requirements of the Government Code, §2001.039.

TRD-202303052

Marcus Adams

Acting General Counsel

Texas Department of Banking

Filed: August 18, 2023



Texas State Library and Archives Commission

Title 13, Part 1

The Texas State Library and Archives Commission (commission) has completed its review of Title 13 Texas Administrative Code, Part 1, Chapter 1, Library Development. The commission published its Notice of Intent to Review these rules in the April 28, 2023, issue of the *Texas Register* (48 TexReg 2191). The commission received no comments on the proposed rule review.

The commission reviewed the following subchapters: Subchapter A, Library Services and Technology Act State Plan; Subchapter B, Standards for Accreditation of a Major Resource System of Libraries in the

Texas Library System; Subchapter C, Minimum Standards for Accreditation of Libraries in the State Library System; Subchapter D, Grants: System Operation, Incentive, Establishment, and Equalization; Subchapter E, Grants: Electronic Access; Subchapter F, System Advisory Council.

As a result of the review, the commission finds that the reasons for initially adopting the rules continue to exist. Therefore, the commission readopts Chapter 1 in its entirety in accordance with the requirements of Government Code, §2001.039.

This concludes the commission's review of Chapter 1 as required by Government Code, §2001.039.

TRD-202303015

Sarah Swanson

General Counsel

Texas State Library and Archives Commission

Filed: August 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 117, Control of Air Pollution from Nitrogen Compounds, 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 April 7, 2023, issue of the *Texas Register* (48 TexReg 1857).

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 for control of nitrogen oxides (NO_x) emissions in Chapter 117 were specifically developed to meet the federal Clean Air Act requirements for attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) for ozone set by the United States Environmental Protection Agency (EPA).

States are primarily responsible for ensuring attainment and maintenance of the NAAQS once EPA has established those standards. Under 42 United States Code, §7410 and related provisions, states must submit revisions to their state implementation plans (SIP) for EPA approval that provide for the attainment and maintenance of the NAAQS through control programs directed to sources of the pollutants involved. NO_x are precursor pollutants in the formation of ozone, and the NO_x control rules in Chapter 117 form a significant component of the Texas SIP to attain and maintain the NAAQS for ozone.

Additional rules in Chapter 117 are needed to regulate carbon monoxide (CO) and ammonia emissions that result from the required NO_x controls. These rules are not included in the SIP but address pollutants that may increase as an incidental result of compliance with NO_x emissions specifications. Certain Chapter 117 rules also give the executive director the authority to approve alternative case-specific specifications for NO_x, ammonia, and CO when owners or operators can demonstrate that an affected unit cannot attain certain rule requirements in Chapter 117. These rules were adopted to establish the availability of a case-by-case determination of alternative requirements, including NO_x reasonably available control technology (RACT) requirements, and are not approved in the SIP.

The review resulted in a determination that the rules in §§117.305, 117.315, 117.323 117.1205, and 117.1215 are obsolete and can be re-

moved. These sections include provisions that specify the sections no longer apply after the appropriate compliance date in §117.9020(2) or §117.9120(2), which varies; but all dates are prior to 2008. Because the NO_x RACT rules in §§117.305 and 117.1205 no longer apply, the portion of the rules in §§117.325 and 117.1225 providing for an alternative case-specific emissions specification for the NO_x RACT requirements of §§117.305 and 117.1205 are also obsolete; the portions of §§117.325 and 117.1225 that provide for an alternative emissions specification for the CO or ammonia specifications of §§117.310(c) or 117.1210(b) remain relevant.

The review also identified the definition of Emergency Situation in 30 TAC §117.10 may be outdated, and staff recommends evaluating the references in the definition to determine if updates are needed.

Public Comment

The public comment period closed on May 8, 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 117 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-202303056

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 18, 2023



The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 318, Marine Seawater Desalination Discharges, 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 April 7, 2023, issue of the *Texas Register* (48 TexReg 1857).

The review assessed whether the initial reasons for adopting the rules continue to exist, and the commission has determined that those reasons exist. Chapter 318 implements Texas Water Code Chapter 18 by establishing an expedited permitting process for the discharge of treated marine seawater and waste resulting from the desalination of marine seawater.

Public Comment

The public comment period closed on May 8, 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 318 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202303057

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 18, 2023



The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 327, Spill Prevention and Control, 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 April 7, 2023, issue of the *Texas Register* (48 TexReg 1858).

The review assessed whether the initial reasons for adopting the rules continue to exist, and the commission has determined that those reasons exist. Chapter 327 implements Texas Natural Resources Code §40.107 and Texas Water Code §§26.039, 26.121, 26.262 and 26.264 by establishing reporting requirements, response action guidelines, and administrative procedures and protocols intended to ensure the timeliness, adequacy, coordination, efficiency, and effectiveness of responses to discharges or spills subject to the commission's regulatory jurisdiction. These rules are necessary to prevent the spill or discharge of oil, hazardous substances, or other substances into or adjacent to the waters of the state, to ensure the timely removal of such spills and discharges, and for the assessment of natural resource damages from an unauthorized discharge or spill.

Public Comment

The public comment period closed on May 8, 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 327 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202303055

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 18, 2023



The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 332, Composting, 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 April 7, 2023, issue of the *Texas Register* (48 TexReg 1858).

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 332 are required to establish regulations that require diversion of organic materials from the typical municipal solid waste stream and promote the beneficial reuse of those materials while maintaining standards for human health and safety and environmental protections.

Public Comment

The public comment period closed on May 8, 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 332 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202303058

Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: August 18, 2023

