

TCEQ Quadrennial Rule Reviews

Introduction

The Texas Commission on Environmental Quality (TCEQ or agency) reviews all its rules every four years. TCEQ's rule reviews are performed for each chapter and according to an established rule review plan. Rules are reviewed to ensure that the reason for adopting or readopting the rule continues to exist and to identify obsolete rule provisions.

Rule Review Plan

The agency's rule review plan establishes the schedule for review of all rules in effect at the time the plan is adopted. The rule plan is posted to the agency's rulemaking webpage at https://www.tceq.texas.gov/rules/rules_rulemaking.html.

Notice of Intent to Publish

For each chapter under review, the agency publishes two notices in the "Review of Agency Rules" section of the Secretary of State's *Texas Register* publication. The first, "Notice of Intent to Review," declares the agency's intention to review a specific rule chapter (or group of rules). This notice alerts the public of the agency's intent to review the referenced rule and invites public comment. The notice includes information on how to submit a public comment. Public comments can include factual, legal, and policy reasons for adopting a rule, as well as experience with the rule since its adoption or last review. The commission will consider public comments when determining whether a rule should be republished, amended, or repealed. TCEQ maintains comments it receives that are unrelated to the statutory and regulatory purpose of a rule review for use when a chapter is opened for substantive rulemaking.

This notice also informs the public of the date and time that the commission will take up the rule at a commission agenda meeting, which is open to the public.

Commission Agenda Meeting

The commission considers each rule review at a commission agenda meeting. The public has an additional opportunity to provide comment at this meeting. During the agenda meeting, the commission will decide to republish, republish with further direction, or repeal the rule under review. The commission can also direct the executive director to initiate a rulemaking as a result of the rule review. Following the meeting, the second notice is published in the *Texas Register* conveying the commission's decision.

Rule Amendments Resulting from Rule Reviews

Generally, TCEQ does not modify rule sections in this review. Unless a rule is already undergoing changes and the rule review is included in the scope of the changes, substantive changes identified during the rule review process will be addressed during a separate rulemaking before the next scheduled quadrennial rule review. Any proposed rulemaking will be published in the *Texas Register* and will follow the rulemaking process described on TCEQ's rulemaking webpage located at

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<https://www.tceq.texas.gov/rules/rules_rulemaking.html>. The public will have additional opportunities to provide comment during the subsequent rulemaking.

Process Summary:

1. TCEQ posts its quadrennial rule review plan and schedule on the external website.
2. Notice of Intent to Review is published in the *Texas Register*, opening the 30-day public comment period.
3. Agency staff review the rule and all public comments received.
4. The commission considers the rule review and comments received at a commission agenda meeting, which is open to the public. The public may also provide comment at the agenda meeting.
5. The commission approves adoption of the rule review and readopts the rule, approves the adoption of the rule review with changes and readopts the rule, or approves the repeal of the rule.
6. The commission may direct the executive director to initiate a rulemaking to amend the rule based on information considered during the rule review.
7. Notice of the commission decision is published in the *Texas Register*.
8. TCEQ saves the public comments received and considers them when the rule is next substantively changed.
9. The executive director implements the commission's directive, including direction to initiate a rulemaking for the purpose of amending a rule.

Owner:

Office of Legal Services, General Law Division, Texas Register Rule Development Team

Sources:

1 Texas Administrative Code, Chapter 91, Subchapter D
Texas Government Code Sec. 2001.039

Date:

March 2023

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