

AGENDA ITEM MEMO

BOARD MEETING DATE: December 15, 2022

TO: Board Members

THROUGH: Jeff Walker, Executive Administrator
Ashley Harden, General Counsel

FROM: Alexis Lorick, Assistant General Counsel

SUBJECT: Proposed Rule Review Plan for Agency Rules

ACTION REQUESTED

Consider adopting a rule review plan for the Texas Water Development Board related to its rules contained in 31 Texas Administrative Code, Part 10.

BACKGROUND

In July 2022, the Sunset Advisory Commission (Commission) completed its required Staff Report with Commission Decisions (Sunset Report) reviewing and making recommendations for the Texas Water Development Board (TWDB). This proposed action addresses items in Issue 3.

KEY ISSUES

Item 3 in the Sunset Report on the Texas Water Development Board directed the Agency to comply with Texas Government Code § 2001.039 to review its rules every four years, including determining whether the initial reasons for adopting the rules continue to exist. The Sunset Report instructed that the plan should include a schedule and the TWDB should consider filing its rule review plan with the *Texas Register*. The Sunset Report also requires the TWDB to submit to it a proposed plan of review for all of the Agency's rules by December 31, 2022.

The Executive Administrator instructed the Office of General Counsel to respond to the Sunset Commission's directives. Attached is a proposed schedule of review for the Agency's rules in 31 Texas Administrative Code, Part 10. Additionally, the *Texas Register* no longer requires state agencies to publish rule review plans; instead, the Office of General Counsel

will publish notices of intent to review certain Agency rules. Then after its review, it will publish and adopt the results in the *Texas Register*.¹

The Office of General Counsel has reviewed the last adoption date of each of the existing Agency rules contained in 31 Texas Administrative Code, Part 10. It proposes to review the following chapters of rules for the first quarter of calendar year 2023:

Title 31, Part 10, Chapter 353, Introductory Provisions
Title 31, Part 10, Chapter 354, Memoranda of Understanding
Title 31, Part 10, Chapter 380, Alternative Dispute Resolution

Following the review of the three aforementioned chapters, the Office of General Counsel will continue to rule the Agency's rules in accordance with the proposed rule review schedule recommended by the Executive Administrator.

RECOMMENDATION

The Executive Administrator recommends the adoption of a proposed rule review schedule for Agency rules in Title 31, Part 10.

Attachment:

Rule Review Schedule for 31 Texas Administrative Code, Part 10

¹ The Office of General Counsel will comply with rule review requirements contained in Texas Government Code § 2001.039 that requires (upon review) for the TWDB to re-adopt, re-adopt with amendments, or repeal existing rules. The Office of General Counsel will work with appropriate program areas to adequately review affected rules.

Rule Review Schedule by Chapter for 31 Texas Administrative Code, Part 10		
Chapter	Title	Scheduled Review by Calendar Year Quarter
353	Introductory Provisions	Q1 2023
354	Memoranda of Understanding	Q1 2023
355	Research and Planning Fund	Q1 2024
356	Groundwater Management	Q1 2024
357	Regional Water Planning	Q3 2023
358	State Water Planning Guidelines	Q3 2023
359	Water Banking	Q3 2023
360	Designation of River and Coastal Basins	Q3 2023
361	Regional Flood Planning	Q3 2024
362	State Flood Planning Guidelines	Q1 2025
363	Financial Assistance Programs	Q3 2023
364	Model Subdivision Rules	Q3 2023
365	Rural Water Assistance Fund	Q1 2024
367	Agricultural Water Conservation Program	Q3 2023
371	Drinking Water State Revolving Fund	Q1 2024
375	Clean Water State Revolving Fund	Q1 2024
377	Hydrographic Survey Program	Q3 2023
380	Alternative Dispute Resolution	Q1 2023

Rule Review Schedule by Timing for 31 Texas Administrative Code, Part 10		
Scheduled Review by Calendar Year Quarter	Chapter	Title
Q1 2023	353	Introductory Provisions
	354	Memoranda of Understanding
	380	Alternative Dispute Resolution
Q3 2023	357	Regional Water Planning
	358	State Water Planning Guidelines
	359	Water Banking
	360	Designation of River and Coastal Basins
	363	Financial Assistance Programs
	364	Model Subdivision Rules
	367	Agricultural Water Conservation Program
Q1 2024	377	Hydrographic Survey Program
	355	Research and Planning Fund
	356	Groundwater Management
	365	Rural Water Assistance Fund

	371	Drinking Water State Revolving Fund
	375	Clean Water State Revolving Fund
Q3 2024	361	Regional Flood Planning
Q1 2025	362	State Flood Planning Guidelines