

The Texas Animal Health Commission (Commission) proposes the repeal of existing §32.6, concerning Transcript of the Hearing in the Texas Administrative Code, Title 4, Part 2, Chapter 32. Notice of the Commission's intention to review this chapter was published in the May 12, 2023 issue of the Texas Register (47 TexReg 2511).

BACKGROUND AND PURPOSE

Chapter 32, concerning Hearing and Appeal Procedures, sets forth the process by which an individual may appeal an order or decision of the Commission. The Commission proposes the repeal of §32.6, concerning Transcript of the Hearing, because the contents of the rule have been moved to §32.4, Hearing Procedures. This change is proposed to provide clearer guidance on the existing appeal process and to better align the appeal requirements with the statutory requirements set forth in the Texas Agriculture Code and the Administrative Procedure Act.

SECTION-BY-SECTION DISCUSSION

The proposed repeal will repeal the existing §32.6, the contents of which have been moved to §32.4, Hearing Procedures, in a concurrent submission.

SUMMARY OF COMMENTS RECEIVED DURING RULE REVIEW AND COMMISSION RESPONSE

During the 30-day comment period of the proposed rule review, the Commission received no comments.

FISCAL NOTE

Ms. Jeanine Coggeshall, General Counsel for the Texas Animal Health Commission, determined that for each year of the first five years that the rule is in effect, enforcing or administering the proposed repeal does not have foreseeable implications relating to costs or revenues of state or local governments. Commission employees will administer and enforce the repeal as part of their current job duties and resources. Ms. Coggeshall also determined for the same period that there is no estimated increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed repeal.

PUBLIC BENEFIT NOTE

Ms. Coggeshall determined that for each year of the first five years the repeal is in effect, the anticipated public benefits are to provide clarity and guidance on how an individual may appeal Commission orders and to better align the current rules with statutory requirements.

TAKINGS IMPACT ASSESSMENT

The Commission determined that the proposal does not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. Therefore, the proposed rules are compliant with the Private Real Property Preservation Act in Texas Government Code §2007.043 and do not constitute a taking.

LOCAL EMPLOYMENT IMPACT STATEMENT

The Commission determined that the proposed repeal would not impact local economies and, therefore, did not file a request for a local employment impact statement with the Texas Workforce Commission pursuant to Texas Government Code §2001.022.

REGULATORY ANALYSIS OF MAJOR ENVIRONMENTAL RULES

The Commission determined that this proposal is not a “major environmental rule” as defined by Government Code §2001.0225. “Major environmental rule” is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

GOVERNMENT GROWTH IMPACT STATEMENT

In compliance with the requirements of Texas Government Code §2001.0221, the Commission prepared the following Government Growth Impact Statement. For each year of the first five years the proposed repeal would be in effect, the Commission determined the following:

1. The repeal will not create or eliminate a government program;
2. Implementation of the proposed repeal will not require the creation of new employee positions or the elimination of existing employee positions;
3. Implementation of the repeal will result in no assumed change in future legislative appropriations;
4. The repeal will not affect fees paid to the Commission;
5. The repeal will not create new regulation;
6. The repeal will repeal an existing regulation, but the repealed regulation has been moved to another rule section for readability;
7. The repeal will not change the number of individuals subject to the rule; and
8. The repeal will not affect the state’s economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Ms. Coggeshall also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities pursuant to Texas Government Code, Chapter 2006. The repeal does not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

COSTS TO REGULATED PERSONS

The proposed repeal to Chapter 32 does not impose additional costs on regulated persons and are designed to provide clarity to already existing appeal procedures and to bring the rules into compliance with statutory requirements. The proposed repeal does not otherwise impose a direct cost on a regulated person, state agency, a special district, or a local government within the state.

PUBLIC COMMENT

Written comments regarding the proposed repeal may be submitted to Amanda Bernhard, Texas Animal Health Commission, 2105 Kramer Lane, Austin, Texas 78758, by fax at (512) 719-0719 or by e-mail to comments@tahc.texas.gov. To be considered, comments must be received no later than thirty (30) days from the date of publication of this proposal in the *Texas Register*. When faxing or emailing comments, please indicate "Comments on Proposed Rule-Chapter 32, Hearing and Appeal Procedures " in the subject line.

STATUTORY AUTHORITY

The proposed repeal is authorized by Texas Government Code, §2001.004(1), which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

Pursuant to §161.038 of the Texas Agriculture Code, titled "Administrative Procedure Act Applicable," the Commission is subject to the administrative procedure law set forth in Chapter 2001 of the Texas Government Code.

Pursuant to §161.046 of the Texas Agriculture Code, titled "Rules," the Commission may adopt rules as necessary for the administration of enforcement of this chapter.

Pursuant to §161.148 of the Texas Agriculture Code, titled "Administrative Penalty," the Commission may impose an administrative penalty on a person who violates a statute, rule, or order of the Commission. Section 161.148 outlines the procedure for appeal from such notice of violation.

No other statutes, articles, or codes are affected by this proposal.

The Commission hereby certifies that this proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.