

REVIEW OF AGENCY RULES

This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2)

notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the *Texas Register* office.

Adopted Rule Reviews

Texas Department of Licensing and Regulation

Title 16, Part 4

The Texas Department of Licensing and Regulation (Department) filed a Notice of Intent to Review and consider for re-adoption, revision, or repeal, Title 16, Texas Administrative Code (TAC), Chapter 91, relating to the Dog or Cat Breeders. The Notice of Intent to Review was published in the May 16, 2016, issue of the *Texas Register* (41 TexReg 3529). The public comment period closed on June 13, 2016.

Texas Government Code, §2001.039 requires state agencies to review their rules every four years to determine if the reasons for initially adopting the rules continue to exist. The rules implementing Dog or Cat Breeders under Occupations Code, Chapter 802, are scheduled for this four-year review.

The Department has reviewed these rules and has determined that the rules are still essential in implementing the statutory provisions of Occupations Code, Chapter 802, Regulation of Dog or Cat Breeders. The rules provide details that are not found in the program statute but are necessary for implementation and operation of this program. For example, the rules detail the licensing requirements, standards of care, and the fees that are specific to this program. The Department received public comments in response to the Notice of Intent to Review from approximately 1490 interested parties.

Approximately 1200 commenters expressed concerns regarding the current dog enclosure standards, specifically, they were not strong enough and the size and conditions of current cages and pens used for dogs in commercial breeding. The commenters encourage bigger cage space, requiring a solid resting surface, and banning stacking of cages. Approximately 170 commenters expressed concern regarding facilities, specifically: animals should be prohibited from being kept in an outdoor facility when the temperature reaches more than 90

or less than 50 degrees; the minimum space should be doubled; the construction of the cage or pen should be made of a material other than wire or wire mesh flooring; and enclosures should not be allowed to be stacked on top of one another. Approximately 40 commenters stated generally that puppy mills should be abolished and the program made more stringent. Approximately 30 commenters are seeking repeal of the program and statutes regulating Dog or Cat Breeders. Approximately 45 commenters expressed concerns that the rules in general are not strict enough and request more be done. However, these commenters did not provide specific recommendations, changes, or requests. These comments will be taken under consideration as part of any possible rule changes in the future.

At its meeting on October 5, 2016, the Texas Commission of Licensing and Regulation (Commission), the Department's governing body, readopted the rules at 16 TAC, Chapter 91 Dog or Cat Breeders, in their current form. As a result of this review process, the Department may propose amendments in the future that may further clarify or supplement the existing rules. Any future proposed changes to the rules will be published in the Proposed Rules section of the *Texas Register* and will be open for public comment prior to final adoption by the Commission in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

The rules are re-adopted by the Commission in accordance with Texas Government Code §2001.039. This concludes the review of 16 TAC, Chapter 91, Dog or Cat Breeders.

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