

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Adoption of Rules Review & Readoption of Chapter 327

AGENDA REQUESTED: June 26, 2019

DATE OF REQUEST: June 7, 2019

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Kris Hogan, Agenda Coordinator, (512) 239-6812

CAPTION: Docket No. 2018-1302-MIS. Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 327, Spill Prevention and Control. This review is in accordance with Texas Government Code, Section 2001.039, which requires state agencies to review and consider for readoption each of their rules every four years. The proposal was published in the December 21, 2018, issue of the *Texas Register* (43 TexReg 8482). (Elizabeth Vanderwerken, Shea Pearson, Celia Castro) (Project No. 2019-010-327-CE)

Ramiro Garcia, Jr.

Deputy Director

Kristi Mills-Jurach

Division Director

Kristina M. Hogan

Agenda Coordinator

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** June 7, 2019

Thru: Bridget C. Bohac, Chief Clerk
Toby Baker, Executive Director

From: Ramiro Garcia, Jr., Deputy Director
Office of Compliance and Enforcement

Docket No.: 2018-1302-MIS

Subject: Commission Approval for Adoption of Rules Review and Readoption of Rules
Chapter 327, Spill and Prevention Control
Rules Review of 30 TAC Chapter 327
Non-Rule Project No. 2019-010-327-CE

What the adopted action would do:

This action will approve the rules review of Chapter 327, and readopt the chapter.

This action constitutes a determination by the Texas Commission on Environmental Quality (commission), after opportunity for public review and comment, that the initial reasons for adopting the rules of this chapter continue to exist.

Applicable law:

The review of the rules is authorized under the requirements of Texas Government Code, §2001.039; and the General Appropriations Act, Article IX, §9-10.13, 76th Texas Legislature, 1999, which require state agencies to review and consider for re adoption each of their rules every four years.

Reason rules are needed:

Executive director's staff conducted a review of the rules in Chapter 327 and determined that the reasons for adopting these rules continue to exist. The rules in Chapter 327 implement Texas Water Code, §§26.039, 26.121, 26.262, and 26.264 by establishing reporting requirements and response action guidelines, intended to ensure the timeliness, adequacy, coordination, efficiency, and effectiveness of responses to discharges or spills subject to the commission's regulatory jurisdiction. The 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 and to ensure the timely removal of such spills and discharges.

Rules found to be obsolete:

None.

Public comment:

A public hearing was not offered for this review. The comment period for the rules review closed on January 28, 2019. No comments were received.

Affected agency program(s):

The program area responsible for implementing these rules is the Office of Compliance and Enforcement.

Commissioners

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Re: Docket No. 2018-1302-MIS

Agency contacts:

Elizabeth Vanderwerken, Project Manager, Program Support Division, (512) 239-5900

Shea Pearson, Staff Attorney, (512) 239-0545

Celia Castro, Staff Attorney, (512) 239-5692

Kris Hogan, Texas Register/Agenda Coordinator, (512) 239-6812

Attachments:

Texas Register publication of Proposed Rule Review Notice

cc: Chief Clerk, 7 copies

tem. All comments should reference Non-Rule Project Number 2018-041-018-AI. Comments must be received by January 25, 2019. For further information, please contact Elizabeth Sartain, Air Quality Division, at (512) 239-3933.

TRD-201805298

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: December 11, 2018



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 298, Environmental Flow Standards for Surface Water.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for re adoption, re adoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 298 continue to exist.

Comments regarding suggested changes to the rules in Chapter 298 may be submitted, but will not be considered for rule amendments as part of this review. Any such comments may be considered in a future rulemaking action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 298. Written comments may be submitted to Ms. Kris Hogan, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Non-Rule Project Number 2018-042-298-OW. Comments must be received by January 28, 2019. For further information, please contact Kathy Ramirez, Water Availability Division, at (512) 239-6757.

TRD-201805301

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: December 11, 2018



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 327, Spill Prevention and Control.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for re adoption, re adoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 327 continue to exist.

Comments regarding suggested changes to the rules in Chapter 327 may be submitted, but will not be considered for rule amendments as

part of this review. Any such comments may be considered in a future rulemaking action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 327. Written comments may be submitted to Ms. Kris Hogan, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Non-Rule Project Number 2019-010-327-CE. Comments must be received by January 28, 2019. For further information, please contact Elizabeth Vanderwerken, Project Manager, Program Support Section, Office Compliance and Enforcement, at (512) 239-5900.

TRD-201805302

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: December 11, 2018



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 334, Underground and Aboveground Storage Tanks.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for re adoption, re adoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 334 continue to exist.

Comments regarding suggested changes to the rules in Chapter 334 may be submitted, but will not be considered for rule amendments as part of this review. Any such comments may be considered in a future rulemaking action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 334. Written comments may be submitted to Paige Bond, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Non-Rule Project Number 2019-011-334-WS. Comments must be received by January 25, 2019. For further information, please contact Anna R. Brulloths, Project Manager, Remediation Division, at (512) 239-5052.

TRD-201805295

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: December 11, 2018



The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 TAC Chapter 327, Spill and Prevention Control, 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 December 21, 2018, issue of the *Texas Register* (43 TexReg 8482).

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 327 are required because the rules implement Texas Water Code, §§26.039, 26.121, 26.262, and 26.264 by establishing reporting requirements and response action guidelines, intended to ensure the timeliness, adequacy, coordination, efficiency, and effectiveness of responses to discharges or spills subject to the commission's regulatory jurisdiction. The 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 and to ensure the timely removal of such spills and discharges.

Public Comment

The public comment period closed on January 28, 2019. 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.

Texas Commission on Environmental Quality



ORDER ADOPTING RULES REVIEW AND READOPTING RULES

Docket No. 2018-1302-MIS
Non-Rule Project No. 2019-010-327-CE

On June 26, 2019, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 TAC Chapter 327, Spill Prevention and Control, in accordance with the requirements of Texas Government Code, § 2001.039, which requires a state agency to review and consider for re-adoption each of its rules every four years. The proposed Notice of Intention to Review was published in the December 21, 2018, issue of the *Texas Register* (43 TexReg 8482).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 327 is hereby adopted. The rules and the preamble to the rules approved by the Commission are incorporated by reference in this Order as if set forth at length verbatim in this Order.

IF ANY PORTION OF THIS ORDER is for any reason held to be invalid by a court of competent jurisdiction, the invalidity of any portion shall not affect the validity of the remaining portions.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Jon Niermann, Chairman

Date Signed