

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
**AGENDA ITEM REQUEST**  
for Adoption of Rules Review & Readoption of Chapter 21

**AGENDA REQUESTED:** September 6, 2023

**DATE OF REQUEST:** August 18, 2023

**INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED:** Gwen Ricco, Agenda Coordinator, (512) 239-2678

**CAPTION: Docket No. 2022-1594-MIS.** Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 21, Water Quality Fees. 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 April 21, 2023, issue of the *Texas Register* (Vol. 48 TexReg page 2141). (Shannon Gibson, Aubrey Pawelka) (Non-Rule Project No. 2023-020-021-OW)

Robert Sadlier  
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**Deputy Director**

Cari-Michel La Caille  
\_\_\_\_\_  
**Division Director**

Gwen Ricco  
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**Agenda Coordinator**

# Texas Commission on Environmental Quality

## Interoffice Memorandum

**To:** Commissioners **Date:** August 18, 2023

**Thru:** Laurie Gharis, Chief Clerk  
Kelly Keel, Interim Executive Director

**From:** Cari-Michel LaCaille, Director  
Office of Water

**Docket No.:** 2022-1594-MIS

**Subject:** Commission Approval for Adoption of Rules Review and Readoption of Rules  
Chapter 21, Water Quality Fees  
Rules Review of 30 TAC Chapter 21  
Non-Rule Project No. 2023-020-021-OW

**What the adopted action would do:**

This action will approve the rules review of Chapter 21, and readopt the chapter.

This action constitutes a determination by the Texas Commission on Environmental Quality (TCEQ), 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 readoption each of their rules every four years.

**Reason rules are needed:**

Executive director's staff conducted a review of the rules in Chapter 21 and determined that the reasons for adopting these rules continue to exist. The rules in Chapter 21 are required to establish annual fees that are assessed against wastewater permit holders authorized to discharge into or adjacent to water in the state and against each person holding a right to impound, divert, or use state water. The annual fees are necessary to support the following programs and activities conducted by the commission:

- water quality administration, including, but not limited to, inspection of wastewater treatment facilities and enforcement of Texas Water Code (TWC), Chapter 26, the rules and orders of the commission related to wastewater discharges and wastewater treatment facilities, and the provisions of wastewater discharge permits;
- the Texas Clean Rivers Program, which monitors and assesses water quality conditions that support water quality management decisions necessary to maintain and improve the quality of the state's water resources; and
- any other water resource management programs reasonably related to the activities of the persons required to pay a fee under TWC, §26.0291.

**Rules found to be obsolete:**

None.

**Public comment:**

Commissioners  
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Re: Docket No. 2022-1594-MIS

A public hearing was not offered for this review. The comment period for the rules review closed on May 21, 2023. No comments were received.

**Affected agency program(s):**

The program area(s) responsible for implementing these rules are:

- Water Quality Division;
- Water Availability Division; and
- Water Quality Planning Division.

**Agency contacts:**

Shannon Gibson, Project Manager, Water Quality Division, (512) 239-4284

Aubrey Pawelka, Staff Attorney, Environmental Law Division, (512) 239-0622

Gwen Ricco, Texas Register/Agenda Coordinator, General Law Division, (512) 239-2678

**Attachments:**

*Texas Register* publication of Proposed Rule Review Notice

cc: Chief Clerk, 7 copies

# REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039.

Included here are proposed rule review notices, which invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

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

## Proposed Rule Reviews

Texas Commission on Environmental Quality

### Title 30, Part 1

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 1, Purpose of Rules, General Provisions.

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 1 continue to exist.

Comments regarding suggested changes to the rules in Chapter 1 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 rule-making action by the commission.

#### Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 1. Written comments may be submitted to Gwen Ricco, 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://tceq.commentinput.com/>. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Non-Rule Project Number 2023-050-001-LS. Comments must be received by May 22, 2023. For further information, please contact Kathy Humphreys, Environmental Law Division, at (512) 239-3417.

TRD-202301358

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: April 12, 2023



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 21, Water Quality Fees.

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 com-

mission will assess whether the reasons for initially adopting the rules in Chapter 21 continue to exist.

Comments regarding suggested changes to the rules in Chapter 21 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 rule-making action by the commission.

#### Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 21. Written comments may be submitted to Gwen Ricco, 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://tceq.commentinput.com/>. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Non-Rule Project Number 2023-020-021-OW. Comments must be received by May 22, 2023. For further information, please contact Shannon Gibson, Water Quality Division, at (512) 239-4284.

TRD-202301359

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: April 12, 2023



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 Texas Administrative Code (30 TAC) Chapter 297, Water Rights, Substantive.

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 30 TAC Chapter 297 continue to exist.

Comments regarding suggested changes to the rules in 30 TAC Chapter 297 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 30 TAC Chapter 297. Written comments may be submitted to Gwen Ricco, 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

The Texas Commission on Environmental Quality (TCEQ or commission) has completed its Rule Review of 30 TAC Chapter 21, Water Quality Fees, as required by Texas Government Code (TGC), §2001.039. TGC, §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 April 21, 2023, issue of the *Texas Register* (48 TexReg 2141).

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 21 are required to establish annual fees that are assessed against wastewater permit holders authorized to discharge into or adjacent to water in the state and against each person holding a right to impound, divert, or use state water. The annual fees are necessary to support the following programs and activities conducted by the commission:

- water quality administration, including, but not limited to, inspection of wastewater treatment facilities and enforcement of Texas Water Code (TWC), Chapter 26, the rules and orders of the commission related to wastewater discharges and wastewater treatment facilities, and the provisions of wastewater discharge permits;
- the Texas Clean Rivers Program, which monitors and assesses water quality conditions that support water quality management decisions necessary to maintain and improve the quality of the state's water resources; and

- any other water resource management programs reasonably related to the activities of the persons required to pay a fee under TWC, §26.0291.

#### Public Comment

The public comment period closed on May 21, 2023. 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 21 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. 2022-1594-MIS  
Non-Rule Project No. 2023-020-021-OW

On September 6, 2023, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 TAC Chapter 21, Water Quality Fees 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 April 21, 2023, issue of the *Texas Register* (48 TexReg 2141).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 21 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

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Jon Niermann, Chairman

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Date Signed