

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
**AGENDA ITEM REQUEST**  
for Adoption of Rules Review & Readoption of Chapter 205

**AGENDA REQUESTED:** June 14, 2023

**DATE OF REQUEST:** May 26, 2023

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

**CAPTION: Docket No. 2022-1693-MIS.** Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 205, General Permits for Waste Discharges. 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 February 10, 2023, issue of the *Texas Register* (Vol. 48 TexReg page 720). (Shannon Gibson, Harrison Malley) (Non-Rule Project No. 2023-025-205-OW)

Cari-Michel LaCaille

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**Director**

Robert Sadlier

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**Division Deputy Director**

Gwen Ricco

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**Agenda Coordinator**

# Texas Commission on Environmental Quality

## Interoffice Memorandum

**To:** Commissioners **Date:** May 26, 2023

**Thru:** Laurie Gharis, Chief Clerk  
Erin E. Chancellor, Interim Executive Director

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

**Docket No.:** 2022-1693-MIS

**Subject:** Commission Approval for Adoption of Rules Review and Readoption of Rules  
Chapter 205, General Permits for Waste Discharges  
Rules Review of 30 TAC Chapter 205  
Non-Rule Project No. 2023-025-205-OW

**What the adopted action would do:**

This action will approve the rules review of Chapter 205, 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 205 and determined that the reasons for adopting these rules continue to exist. Chapter 205 codifies the authority for TCEQ to issue general permits (GPs) for discharges of stormwater and wastewater into or adjacent to water in the state from certain facilities and activities. Chapter 205 also provides the administrative procedures for issuing GPs and authorizations under GPs.

A GP is a simplified and streamlined method for authorizing wastewater and stormwater discharges in specific circumstances, as an alternative to resource-intensive site-specific individual permits. Under Texas Water Code, §26.040, the Texas Legislature provided the TCEQ with the authority to issue general permits as a means of authorizing wastewater and stormwater discharges. The issuance of GPs is a core component of TCEQ's wastewater and stormwater permitting strategy. The use of GPs to authorize facilities with similar operations, discharges, and protective measures allows TCEQ to allocate finite permitting resources towards the review of more complex or unique sources of water pollution.

TCEQ has issued 15 GPs under Chapter 205 which authorize discharges from: construction stormwater, industrial stormwater, concentrated animal feeding operations, small municipal separate storm sewer systems, concrete batch plants, petroleum bulk storage tanks, aquaculture, livestock manure composting, quarries, facilities that use

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evaporation ponds, facilities that conduct hydrostatic testing, pesticide applications, activities that generate petroleum contaminated water, and water treatment plants. In recent years (2018 - 2022) the Water Quality Division has processed an average of over 11,700 GP authorizations per year. This workload does not include the number of permittees that obtain authorization without submission of an application, which is allowed by five of the GPs. If Chapter 205 was eliminated, these applications would have to be processed as site specific individual permits which would substantially increase the burden on the regulated community and on the TCEQ.

**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 March 12, 2023. No comments were received.

**Affected agency program(s):**

The program area(s) responsible for implementing these rules are the Water Quality Division and the Office of Compliance and Enforcement.

**Agency contacts:**

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

Cole Malley, Staff Attorney, Environmental Law Division, (512) 239-1439

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

Guy Henry  
Acting Deputy Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Filed: January 31, 2023

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 205, General Permits for Waste Discharges.

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 205 continue to exist.

Comments regarding suggested changes to the rules in Chapter 205 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 205. 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 2023-025-205-OW. Comments must be received by March 14, 2023. For further information, please contact Shannon Gibson, Water Quality Division, at (512) 239-4284.

TRD-202300421  
Guy Henry  
Acting Deputy Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Filed: January 31, 2023

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 326, Medical Waste Management. 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 326 continue to exist.

Comments regarding suggested changes to the rules in Chapter 326 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 326. 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 2023-022-

326-WS. Comments must be received by March 14, 2023. For further information, please contact Jarita Sepulvado, Waste Permits Division, at (512) 239-4413.

TRD-202300418  
Guy Henry  
Acting Deputy Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Filed: January 31, 2023

#### Texas Commission on Law Enforcement

##### Title 37, Part 7

The Texas Commission on Law Enforcement (Commission) files this notice of rule review for Texas Administrative Code, Title 37, Part 7, Chapters 211-229, in accordance with Texas Government Code, §2001.039.

At this time, the Commission has determined that there continues to be a need for these rules and that no changes to the rules as currently in effect are necessary. This proposed rule review is for re-adopting the rules to continue to exist and will be noted in the *Texas Register's* Review of Agency Rules section without publication of the text.

The Commission will accept comments regarding the review. The comment period will last 30 days following the publication of this notice in the *Texas Register*. Comments regarding this review may be submitted to John Beauchamp, Interim Executive Director, Texas Commission on Law Enforcement, 6330 E. Highway 290, Ste. 200 Austin, Texas 78723 or to [public.comment@tcole.texas.gov](mailto:public.comment@tcole.texas.gov) with the subject line "Rule Review".

TRD-202300373  
John Beauchamp  
Interim Executive Director  
Texas Commission on Law Enforcement  
Filed: January 30, 2023

#### Adopted Rule Reviews

##### Public Utility Commission of Texas

##### Title 16, Part 2

The Public Utility Commission of Texas (commission) re-adopts Chapter 24, Substantive Rules Applicable to Water and Sewer Service Providers as required by Texas Government Code (Tex. Gov't Code) §2001.039, Agency Review of Existing Rules. Notice of intent to review the rules was published in the October 14, 2022, issue of the *Texas Register* (47 TexReg 6889). Tex. Gov't Code §2001.039 requires that each state agency review its rules every four years and re-adopt, re-adopt with amendments, or repeal the rules adopted by that agency pursuant to the Tex. Gov't Code, Chapter 2001. Such reviews must include, at a minimum, an assessment by the agency as to whether the reason for adopting or re-adopting the rules continues to exist. The commission has completed the review of the rules in Chapter 24 required by Tex. Gov't Code §2001.039 and finds that the reasons for adopting the rules in Chapter 24 continue to exist and re-adopts the rules with no amendments.

The commission received comments on the proposed rule from Monarch Utilities I L.P. (Monarch) and Texas Association of Water Companies (TAWC).

##### Chapter 24

The Texas Commission on Environmental Quality (TCEQ or commission) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 205, General Permits for Waste Discharges, 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 February 10, 2023, issue of the *Texas Register* (48 TexReg 720).

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 205 are required to codify the authority for the commission to issue general permits (GPs) for discharges of stormwater and wastewater into or adjacent to water in the state from certain facilities and activities. Chapter 205 also provides the administrative procedures for issuing GPs and authorizations under GPs.

A GP is a simplified and streamlined method for authorizing wastewater and stormwater discharges in specific circumstances, as an alternative to resource-intensive site-specific individual permits. Under Texas Water Code, §26.040, the Texas Legislature provided the TCEQ with the authority to issue general permits as a means of authorizing wastewater and stormwater discharges. The issuance of GPs is a core component of TCEQ's wastewater and stormwater permitting strategy. The use of GPs to authorize facilities with similar operations, discharges, and protective measures

allows TCEQ to allocate finite permitting resources towards the review of more complex or unique sources of water pollution.

TCEQ has issued 15 GPs under Chapter 205 which authorize discharges from: construction stormwater, industrial stormwater, concentrated animal feeding operations, small municipal separate storm sewer systems, concrete batch plants, petroleum bulk storage tanks, aquaculture, livestock manure composting, quarries, facilities that use evaporation ponds, facilities that conduct hydrostatic testing, pesticide applications, activities that generate petroleum contaminated water, and water treatment plants. In recent years (2018 - 2022) the Water Quality Division has processed an average of over 11,700 GP authorizations per year. This workload does not include the number of permittees that obtain authorization without submission of an application, which is allowed by five of the GPs. If Chapter 205 was eliminated, these applications would have to be processed as site specific individual permits which would substantially increase the burden on the regulated community and on the TCEQ.

#### Public Comment

The public comment period closed on March 12, 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 205 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. 2022-1693-MIS  
Non-Rule Project No. 2023-025-205-OW

On June 14, 2023, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 TAC Chapter 205, General Permits for Waste Discharges 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 February 10, 2023, issue of the *Texas Register* (48 TexReg 720).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 205 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