

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Adoption of Rules Review & Readoption of Chapter 305

AGENDA REQUESTED: August 2, 2023

DATE OF REQUEST: July 14, 2023

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

CAPTION: Docket No. 2022-1695-MIS. Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 305, Consolidated Permits. 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 24, 2023, issue of the *Texas Register* (48 TexReg 1158) and an extension of the public comment was published in the April 7, 2023, issue of the *Texas Register* (48 TexReg 1875). (Jarita Sepulvado, Heather Haywood) (Non-Rule Project No. 2023-029-305-WS)



Director



Deputy Director


Agenda Coordinator

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** July 14, 2023

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

From: Beth Seaton, Director 
Office of Waste

Docket No.: 2022-1695-MIS

Subject: Commission Approval for Adoption of Rules Review and Readoption of Rules
Chapter 305, Consolidated Permits
Rules Review of 30 TAC Chapter 305
Non-Rule Project No. 2023-029-305-WS

What the adopted action would do:

This action will approve the rules review of Chapter 305, and readopt the chapter.

This action constitutes a determination by the Texas Commission on Environmental Quality, 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 305 and determined that the reasons for adopting these rules continue to exist. The rules in Chapter 305 set out the standards and requirements for applications, permits, executive director authorizations, and actions by the commission to carry out the responsibilities for the management of waste disposal activities and administration of the National Pollutant Discharge Elimination System Program through the Texas Pollutant Discharge Elimination System Program. In addition, there are references to air emissions standards and requirements interspersed in the chapter.

Chapter 305 generally sets out requirements for signatories to the original or amendment applications, and describes what activities trigger amendments. Chapter 305 also contains application contents for permits, licenses, and waste post-closure orders. Specifically, Subchapter A contains general provisions. Subchapter B describes emergency and temporary orders and executive director authorizations. Subchapter C describes applications for a permit or post-closure order. Subchapter D describes amendments, renewals, transfers, revocations, and suspension of permits. Subchapter F describes permit characteristics and conditions. Subchapter G describes additional conditions for hazardous and industrial solid waste storage, processing, or disposal permits. Subchapter H describes additional conditions for injection well permits. Subchapter I describes hazardous waste incinerator permits. Subchapter J describes permits for land treatment demonstrations using field tests or laboratory analyses. Subchapter K describes research,

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development, and demonstration permits. Subchapter L describes the groundwater compliance plan. Subchapter O describes additional conditions and procedures for wastewater discharge permits and sewage sludge permits. Subchapter P describes effluent guidelines and standards for TPDES permits. Subchapter Q describes permits for boilers and industrial furnaces burning hazardous wastes. Subchapter R describes Resource Conservation and Recovery Act standard permits for storage and treatment units.

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 April 14, 2023. No comments were received.

Affected agency program(s):

The program area(s) responsible for implementing these rules are the Office of Waste and the Office of Water.

Agency contacts:

Jarita Sepulvado, Project Manager, Waste Permits Division, (512) 239-4413

Heather Haywood, Staff Attorney, Environmental Law Division, (512) 239-5474

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

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 readoption, readoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 20 continue to exist.

Comments regarding suggested changes to the rules in Chapter 20 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 20. 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 2023-026-020-LS. Comments must be received by March 27, 2023. For further information, please contact Kathy Humphreys, Environmental Law Division, at (512) 239-3417.

TRD-202300690

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: February 14, 2023

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 122, Federal Operating Permits Program.

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 readoption, readoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 122 continue to exist.

Comments regarding suggested changes to the rules in Chapter 122 may be submitted during this review 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 122. 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 fax4808@tceq.texas.gov. 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 2023-027-122-AI. Comments must be received by March 27, 2023. For further information, please contact David Munzenmaier, Air Permits Division, at (512) 239-6092.

TRD-202300691

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: February 14, 2023

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 218, Brine Evaporation Pits.

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 readoption, readoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 218 continue to exist.

Comments regarding suggested changes to the rules in Chapter 218 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 218. 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 2023-028-218-OW. Comments must be received by March 27, 2023. For further information, please contact Shannon Gibson, Water Quality Division, at (512) 239-4284.

TRD-202300687

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: February 14, 2023

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 305, Consolidated Permits.

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 readoption, readoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 305 continue to exist.

Comments regarding suggested changes to the rules in Chapter 305 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 305. 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 2023-029-305-WS. Comments must be received by March 27, 2023. For further information, please contact Jarita Sepulvado, Waste Permits Division, at (512) 239-4413.

The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 TAC Chapter 305, Consolidated Permits, 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 February 24, 2023, issue of the *Texas Register* (48 TexReg 1158) and an extension of the public comment was published in the April 7, 2023, issue of the *Texas Register* (48 TexReg 1875).

The review assessed whether the initial reasons for adopting the rules in Chapter 305 continue to exist and the commission has determined that those reasons exist. The rules in Chapter 305 are required because the rules set out the standards and requirements for applications, permits, executive director authorizations, and actions by the commission to carry out the responsibilities for the management of waste disposal activities and administration of the National Pollutant Discharge Elimination System Program through the Texas Pollutant Discharge Elimination System Program. In addition, there are references to air emissions interspersed in the chapter. The rules in Chapter 305 generally set out requirements for signatories to the original or amendment applications and describe what activities trigger amendments. The rules also contain application contents for permits, licenses, and waste post-closure orders.

Public Comment

The public comment period closed on April 14, 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 305 continue to exist and readopts the rules in Chapter 305 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. 2022-1695-MIS
Non-Rule Project No. 2023-029-305-WS

On August 2, 2023, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 TAC Chapter 305, Consolidated Permits in accordance with the requirements of Texas Government Code, § 2001.039, which requires a state agency to review and consider for readoption each of its rules every four years. The proposed Notice of Intention to Review was published in the February 24, 2023, issue of the *Texas Register* (48 TexReg 1158).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 305 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