

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

AGENDA REQUESTED: August 16, 2023

DATE OF REQUEST: July 28, 2023

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

CAPTION: Docket No. 2022-1719-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 April 7, 2023, issue of the *Texas Register* 48 TexReg 1858). (Zachary King, Don Redmond) (Non-Rule Project No. 2023-034-327-CE)

Craig Pritzlaff

Director

Guy Henry

Division Deputy Director

Gwen Ricco

Agenda Coordinator

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** July 28, 2023

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

From: Craig Pritzlaff, Director
Office of Compliance and Enforcement

Docket No.: 2022-1719-MIS

Subject: Commission Approval for Adoption of Rule Review and Readoption of Rules
Chapter 327, Spill Prevention and Control
Rule Review of 30 TAC Chapter 327
Non-Rule Project No. 2023-034-327-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, after opportunity for public review and comment, that the initial reasons for adopting the rules of this chapter continue to exist.

Applicable law:

This proposed rule review is in accordance with Texas Government Code, §2001.039; and with 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:

Chapter 327 implements Texas Natural Resources Code §40.107 and Texas Water Code, §§26.039, 26.121, 26.262 and 26.264 by establishing reporting requirements, response action guidelines, and administrative procedures and protocols intended to ensure the timeliness, adequacy, coordination, efficiency, and effectiveness of responses to discharges or spills subject to the commission's regulatory jurisdiction. These 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, to ensure the timely removal of such spills and discharges, and for the assessment of natural resource damages from an unauthorized discharge or spill.

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 May 8, 2023. No comments were received.

Commissioners
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Affected agency program(s):

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

Agency contacts:

Zachary King, Project Manager, Program Support and Environmental Assistance Division,
(512) 239-1931

Don Redmond, Staff Attorney, Environmental Law Division, (512) 239-0612

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

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 2023-043-318-OW. Comments must be received by May 8, 2023. For further information, please contact Shannon Gibson, Water Quality Division, at (512) 239-4284.

TRD-202301221

Guy Henry

Acting Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality

Filed: March 29, 2023



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 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 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 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 2023-034-327-CE. Comments must be received by May 8, 2023. For further information, please contact Zachary King, Program Support and Environmental Assistance Division, at (512) 239-1931.

TRD-202301220

Guy Henry

Acting Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality

Filed: March 29, 2023



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 332, Composting.

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 332 continue to exist.

Comments regarding suggested changes to the rules in Chapter 332 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 332. 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 2023-044-332-WS. Comments must be received by May 8, 2023. For further information, please contact Jarita Sepulvado, Waste Permits Division, at (512) 239-4413.

TRD-202301222

Guy Henry

Acting Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality

Filed: March 29, 2023



Texas Juvenile Justice Department

Title 37, Part 11

The Texas Juvenile Justice Department (TJJD) proposes the review of Title 37, Texas Administrative Code, Chapter 385, Agency Management and Operations, in accordance with §2001.039, Texas Government Code.

An assessment will be made by TJJD to determine whether the reasons for adopting or readopting the rules in the chapter continue to exist and whether the rules reflect current legal and policy considerations and current TJJD procedure.

Comments on the review may be submitted within 30 days after publication of this notice to Texas Juvenile Justice Department, Central Services Building, Attention: Policy and Standards Section, 1711 San Jacinto Blvd, Austin, Texas 78701. Comments may also be sent via email to policy.proposals@tjjd.texas.gov.

TRD-202301190

Christian von Wupperfeld
General Counsel

Texas Juvenile Justice Department

Filed: March 27, 2023



Adopted Rule Reviews

Commission on State Emergency Communications

Title 1, Part 12

The Commission on State Emergency Communications (CSEC) has concluded the statutory review of its Chapter 255 rules conducted in accordance with Government Code §2001.039. CSEC's notice of intent to review Chapter 255 was published in the February 10, 2023, issue of the *Texas Register* (48 TexReg 719.)

No comments were received regarding CSEC's notice of review.

CSEC's review assessed and determined that the original reasons and justifications for adopting each rule in Chapter 255 continue to exist, reflect current legal and policy considerations, and the rules are within the agency's legal authority as certified by legal counsel.

Based on its review, CSEC readopts Chapter 255 without amendment. This notice concludes CSEC's review of its Chapter 255 rules.

TRD-202301148

The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 TAC Chapter 327, Spill Prevention and 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 April 7, 2023, issue of the *Texas Register* (48 TexReg 1858).

The review assessed whether the initial reasons for adopting the rules continue to exist and the commission has determined that those reasons exist. Chapter 327 implements Texas Natural Resources Code §40.107 and Texas Water Code, §§26.039, 26.121, 26.262 and 26.264 by establishing reporting requirements, response action guidelines, and administrative procedures and protocols intended to ensure the timeliness, adequacy, coordination, efficiency, and effectiveness of responses to discharges or spills subject to the commission's regulatory jurisdiction. These 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, to ensure the timely removal of such spills and discharges, and for the assessment of natural resource damages from an unauthorized discharge or spill.

Public Comment

The public comment period closed on May 8, 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 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. 2022-1719-MIS
Non-Rule Project No. 2023-034-327-CE

On August 16, 2023, 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 April 7, 2023, issue of the *Texas Register* (48 TexReg 1858).

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