

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
**AGENDA ITEM REQUEST**  
for Adoption of Rules Review & Readoption of Chapter 298

**AGENDA REQUESTED:** July 19, 2023

**DATE OF REQUEST:** June 30, 2023

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

**CAPTION: Docket No. 2022-1720-MIS.** Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 298, Environmental Flow Standards for Surface Water. 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 March 10, 2023, issue of the *Texas Register* (48 TexReg 1454). (Jade Rutledge, Ruth Takeda) (Non-Rule Project No. 2023-033-298-OW)

*Cari-Michel LaCaille*  
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**Director**

*Kim Nigam*  
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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:** June 30, 2023

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

**From:** *CML* Cari-Michel La Caille, Director  
Office of Water

**Docket No.:** 2022-1720-MIS

**Subject:** Commission Approval for Adoption of Rules Review and Readoption of Rules  
Chapter 298, Environmental Flow Standards for Surface Water  
Rule Review of 30 TAC Chapter 298  
Non-Rule Project No. 2023-033-298-OW

**What the adopted action would do:**

This action will approve the rules review of Chapter 298, 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 298 and determined that the reasons for adopting these rules continue to exist. The Chapter 298 rules are necessary to implement requirements in Texas Water Code, Chapter 11. Chapter 298 contains the environmental flow standards for specified river basin and bay systems in Texas. These rules provide for environmental flow standards that apply to certain water rights applications, including specific schedules of flow quantities for different locations in a river system, as well as a schedule for revision of the adopted environmental flow standards.

**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 10, 2023. No comments were received.

**Affected agency program(s):**

The program area responsible for implementing these rules is the Water Availability Division.

Commissioners

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June 30, 2023

Re: Docket No. 2022-1720-MIS

**Agency contacts:**

Jade Rutledge, Project Manager, Water Availability Division, (512) 239-4559

Ruth Takeda, Staff Attorney, Environmental Law Division, (512) 239-6635

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

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 17, Tax Relief for Property Used for Environmental Protection.

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 17 continue to exist.

Comments regarding suggested changes to the rules in Chapter 17 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 17. 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 2023-031-017-AI. Comments must be received by April 10, 2023. For further information, please contact Elizabeth Sartain, Air Quality Division, at (512) 239-3933.

TRD-202300965

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: March 1, 2023



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 18, Voter-Approval Tax Relief for Pollution Control Requirements.

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 18 continue to exist.

Comments regarding suggested changes to the rules in Chapter 18 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 18. 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 2023-032-018-AI. Comments must be received by April 10, 2023. For further information, please contact Elizabeth Sartain, Air Quality Division, at (512) 239-3933.

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TRD-202300966

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: March 1, 2023



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 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 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 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 2023-033-298-OW. Comments must be received by April 10, 2023. For further information, please contact Jade Rutledge, Water Availability Division, at (512) 239-4559.

TRD-202300967

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: March 1, 2023



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 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 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 Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on

The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 TAC Chapter 298, Environmental Flow Standards for Surface Water, 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 March 10, 2023, issue of the *Texas Register* (48 TexReg 1454).

The review assessed whether the initial reasons for adopting the rules continue to exist and the commission has determined that those reasons exist. The Chapter 298 rules are necessary to implement requirements in Texas Water Code, Chapter 11. Chapter 298 contains the environmental flow standards for specified river basin and bay systems in Texas. These rules provide for environmental flow standards that apply to certain water rights applications, including specific schedules of flow quantities for different locations in a river system, as well as a schedule for revision of the adopted environmental flow standards.

#### Public Comment

The public comment period closed on April 10, 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 298 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. 2022-1720-MIS  
Non-Rule Project No. 2023-033-298-OW

On July 19, 2023, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 TAC Chapter 298, Environmental Flow Standards for Surface Water, 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 March 10, 2023, issue of the Texas Register (48 TexReg 1454).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 298 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