

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
**AGENDA ITEM REQUEST**  
for Adoption of Rules Review & Readoption of Chapter 304

**AGENDA REQUESTED:** November 8, 2023

**DATE OF REQUEST:** October 20, 2023

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

**CAPTION: Docket No. 2023-0033-MIS.** Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 304, Watermaster Operations. 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 June 2, 2023, issue of the *Texas Register* (48 TexReg 2865). (Jade Rutledge, Harrison Malley) (Non-Rule Project No. 2023-062-304-OW)

*Cari-Michel La Caille*  
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**Director**

*Kim Nguyen*  
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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:** October 20, 2023

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

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

**Docket No.:** 2023-0033-MIS

**Subject:** Commission Approval for Adoption of Rules Review and Readoption of Rules  
Chapter 304, Watermaster Operations  
Rules Review of 30 TAC Chapter 304  
Non-Rule Project No. 2023-062-304-OW

**What the adopted action would do:**

This action will approve the rules review of Chapter 304 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 304 and determined that the reasons for adopting these rules continue to exist. Chapter 304 provides the rules concerning watermaster operations for each water division other than the Rio Grande Water Division. The rules include the regulation of the use of state water or watercourses, allocation of available waters, enforcement regarding watermaster operations, the administration of watermaster operations, appeal of watermaster actions, and financing watermaster operations. The rules are needed to implement the duties and responsibilities of watermaster operations in Texas Water Code, Chapter 11, including §§11.325 - 11.458 and §§11.551 - 11.561.

**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 July 5, 2023. The purpose of the rule review is limited to assessing whether the reasons for the rules continue to exist. The commission received one non-substantive comment from an individual. The commission acknowledges the comment.

Commissioners  
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Re: Docket No. 2023-0033-MIS

**Affected agency program(s):**

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

**Agency contacts:**

Jade Rutledge, Project Manager, Water Availability Division, (512) 239-4559  
Harrison 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: May 24, 2023



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 Texas Administrative Code (30 TAC) Chapter 304, Watermaster Operations.

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 304 continue to exist.

Comments regarding suggested changes to the rules in 30 TAC Chapter 304 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 304. 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 2023-062-304-OW. Comments must be received by July 5, 2023. For further information, please contact Jade Rutledge, Water Availability Division, at (512) 239-4559.

TRD-202301910  
Guy Henry  
Acting Deputy Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Filed: May 24, 2023



The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 TAC Chapter 304, Watermaster Operations, 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 June 2, 2023, issue of the *Texas Register* (48 TexReg 2865).

The review assessed whether the initial reasons for adopting the rules continue to exist and the commission has determined that those reasons exist. 30 TAC Chapter 304 provides the rules concerning watermaster operations for each water division other than the Rio Grande Water Division. The rules include the regulation of the use of state water or watercourses, allocation of available waters, enforcement regarding watermaster operations, the administration of watermaster operations, appeal of watermaster actions, and financing watermaster operations. The rules are needed to implement the duties and responsibilities of watermaster operations in Texas Water Code, Chapter 11, including §§11.325 - 11.458 and §§11.551 - 11.561.

#### Public Comment

The public comment period closed on July 5, 2023. The purpose of the rule review is limited to assessing whether the reasons for the rules continue to exist. The commission received one non-substantive comment from an individual. The commission acknowledges the comment.

As a result of the review the commission finds that the reasons for adopting the rules in 30 TAC Chapter 304 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. 2023-0033-MIS  
Non-Rule Project No. 2023-062-304-OW

On November 8, 2023, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 TAC Chapter 304, Watermaster Operations 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 June 2, 2023, issue of the *Texas Register* (48 TexReg 2865).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 304 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