

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
**AGENDA ITEM REQUEST**  
for Adoption of Rules Review & Readoption of Chapter 114

**AGENDA REQUESTED:** December 13, 2023

**DATE OF REQUEST:** November 22, 2023

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

**CAPTION: Docket No. 2023-0051-MIS.** Consideration for the adoption of the rules review and readoption of 30 Texas Administrative Code (TAC) Chapter 114, Control of Air Pollution from Motor Vehicles. This review is in accordance with Texas Government Code, §2001.039, which requires state agencies to review and consider for readoption each of their rules every four years. The Notice of Intention to Review was published in the June 30, 2023, issue of the *Texas Register* (48 TexReg 3523). (Sarah Thomas, Contessa Gay) (Non-Rule Project No. 2023-072-114-AI)

Richard C. Chism  
\_\_\_\_\_  
**Director**

Josalyn McMillon  
\_\_\_\_\_  
**Division Deputy Director**

Gwen Ricco  
\_\_\_\_\_  
**Agenda Coordinator**

# Texas Commission on Environmental Quality

## Interoffice Memorandum

**To:** Commissioners **Date:** November 22, 2023

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

**From:** Richard C. Chism, Director *RCC*  
Office of Air

**Docket No.:** 2023-0051-MIS

**Subject:** Commission Approval for Adoption of Rules Review and Readoption of Rules  
Chapter 114, Control of Air Pollution from Motor Vehicles  
Rules Review of 30 Texas Administrative Code (TAC) Chapter 114  
Non-Rule Project No. 2023-072-114-AI

**What the adopted action would do:**

This action will approve the rules review of Chapter 114 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, §9-10.13D, 76th Texas Legislature, 1999, which require state agencies to review and consider for re adoption each of their rules every four years.

**Reason rules are needed:**

Executive director's staff conducted a review of the rules in Chapter 114 and determined that the reasons for adopting these rules continue to exist. The rules in Chapter 114 implement programs and control measures that reduce emissions from on-road motor vehicles and non-road equipment. Chapter 114 includes provisions for several major mobile-source programs implemented to meet federal Clean Air Act requirements for attainment and maintenance of the National Ambient Air Quality Standards established by the United States Environmental Protection Agency. These include the Vehicle Inspection and Maintenance Program; oxygenated fuel, low emission diesel, and regional low Reid vapor pressure fuel programs; and transportation conformity. The chapter also includes provisions for voluntary mobile-source programs that support the State Implementation Plan. These include vehicle idling restrictions, the Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program, and the Texas Emissions Reduction Plan.

**Rules found to be obsolete:**

None.

**Public comment:**

Commissioners  
Page 2  
November 22, 2023

Re: Docket No. 2023-0051-MIS

A public hearing was not offered for this review. The comment period for the rules review closed on August 1, 2023. No comments were received.

**Affected agency program(s):**

The program area(s) responsible for implementing these rules are:

- Air Quality Division,
- Air Grants Division, and
- Office of Compliance and Enforcement

**Agency contacts:**

Sarah Thomas, Project Manager, Air Quality Division, (512) 239-4939

Contessa Gay, Staff Attorney, Environmental Law Division, (512) 239-5938

Gwen Ricco, Texas Register/Agenda Coordinator, General Law Division, (512) 239-2678

**Attachments:**

*Texas Register* publication of Notice of Intention to Review

cc: Chief Clerk, 7 copies

The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 114, Control of Air Pollution from Motor Vehicles, 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 TCEQ published its Notice of Intention to Review these rules in the June 30, 2023 issue of the *Texas Register* (48 TexReg 3523).

The review assessed whether the initial reasons for adopting the rules continue to exist and the TCEQ has determined that those reasons exist. The rules in Chapter 114 are required to implement programs and control measures that reduce emissions from on-road motor vehicles and non-road equipment. Chapter 114 includes provisions for several major mobile-source programs implemented to meet federal Clean Air Act requirements for attainment and maintenance of the National Ambient Air Quality Standards established by the United States Environmental Protection Agency. These include the Vehicle Inspection and Maintenance Program; oxygenated fuel, low emission diesel, and regional low Reid vapor pressure fuel programs; and transportation conformity. The chapter also includes provisions for voluntary mobile-source programs that support the State Implementation Plan. These include vehicle idling restrictions, the Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program, and the Texas Emissions Reduction Plan.

Public Comment

The public comment period closed on August 1, 2023. The TCEQ did not receive comments on the rules review of this chapter.

As a result of the review, the TCEQ finds that the reasons for adopting the rules in 30 TAC Chapter 114 continue to exist and readopts these sections in accordance with the requirements Texas Government Code, §2001.039.

# REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039.

Included here are proposed rule review notices, which invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the website and printed copies of these notices may be directed to the *Texas Register* office.

## Proposed Rule Reviews

Office of the Attorney General

### Title 1, Part 3

The Office of the Attorney General of Texas (OAG) files this notice of its intent to review Chapter 52, concerning Administration, in accordance with Texas Government Code §2001.039. An assessment will be made by the OAG as to whether the reasons for adopting or readopting the chapter continue to exist. Each rule will be reviewed to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule reflects current procedures of the OAG. Comments on the review may be submitted electronically to the OAG's Human Resources Division by email to [HR-Help@oag.texas.gov](mailto:HR-Help@oag.texas.gov) or by mail to Human Resources Division, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548. Comments must be received within 30 days after the publication of this rule review notice to be considered.

TRD-202302199  
Austin Kinghorn  
General Counsel  
Office of the Attorney General  
Filed: June 19, 2023

Texas Commission on Environmental Quality

### Title 30, Part 1

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 114, Control of Air Pollution from Motor Vehicles.

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 114 continue to exist.

Comments regarding suggested changes to the rules in Chapter 114 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 114. 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 2023-072-114-AI. Comments must be received by August 1, 2023. For further information, please contact Sarah Thomas, Air Quality Division, at (512) 239-4939.

TRD-202302210  
Guy Henry  
Acting Deputy Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Filed: June 20, 2023

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 290, Public Drinking 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 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 290 continue to exist.

Comments regarding suggested changes to the rules in Chapter 290 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 290. 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 2023-073-290-OW. Comments must be received by August 1, 2023. For further information, please contact Avery Nguyen, Water Supply Division, at (512) 239-0324.

TRD-202302209  
Guy Henry  
Acting Deputy Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Filed: June 20, 2023

# Texas Commission on Environmental Quality



## ORDER ADOPTING RULES REVIEW AND READOPTING RULES

Docket No. 2023-0051-MIS  
Non-Rule Project No. 2023-072-114-AI

On December 13, 2023, the Texas Commission on Environmental Quality (commission) approved the rules review of 30 Texas Administrative Code (TAC) Chapter 114, Control of Air Pollution from Motor Vehicles 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 Notice of Intention to Review was published in the June 30, 2023, issue of the *Texas Register* (48 TexReg 3523).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 114 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