

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Adoption of Rules Review & Readoption of Chapter 323

AGENDA REQUESTED: January 24, 2024

DATE OF REQUEST: January 5, 2024

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

CAPTION: Docket No. 2023-0076-MIS. Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 323, Waste Disposal Approvals. 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 July 14, 2023, issue of the *Texas Register* (48 TexReg page 3928). (Shannon Gibson, Michael Parr) (Non-Rule Project No. 2023-079-323-OW)

Cari-Michel La Caille

Director

Robert Sadlier

Division Deputy Director

Gwen Ricco

Agenda Coordinator

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** January 5, 2024

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

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

Docket No.: 2023-0076-MIS

Subject: Commission Approval for Adoption of Rules Review and Readoption of Rules
Chapter 323, Waste Disposal Approvals
Rules Review of 30 TAC Chapter 323
Non-Rule Project No. 2023-079-323-OW

What the adopted action will do:

This action will approve the rules review of Chapter 323, and readopt the chapter.

This action constitutes a determination by the Texas Commission on Environmental Quality (TCEQ), 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 323 and determined that the reasons for adopting these rules continue to exist. The rules under Chapter 323 allow the executive director to develop a system for evaluating waste disposal facilities to determine if the design and operation merit state approval. The chapter provides conditions under which a person whose waste disposal facility attained an approved rating can erect signs to show that the facility has been approved, and establishes procedures used to evaluate waste disposal facilities after the rating system has been established.

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 August 14, 2023. No comments were received.

Affected agency program(s):

The program area(s) responsible for implementing these rules are organized under the Water Quality Division.

Commissioners

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Re: Docket No. 2023-0076-MIS

Agency contacts:

Shannon Gibson, Project Manager, Water Quality Division, (512) 239-4284

Michael Parr, Staff Attorney, Environmental Law Division, (512) 239-0611

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

On behalf of the Finance Commission of Texas (commission), the Texas Department of Banking files this notice of intention to review and consider for readoption, revision, or repeal, the following chapter of Texas Administrative Code, Title 7, in its entirety:

Chapter 19 (Trust Company Loans and Investments), comprised of Subchapter B (§19.22); and Subchapter C (§19.51)

The review is conducted pursuant to Government Code, §2001.039. Comments regarding the review of this chapter, and whether the reasons for initially adopting the sections under review continue to exist, will be accepted for 30 days following the publication of this notice in the *Texas Register*.

Any questions or written comments pertaining to this notice of intention to review should be directed to Catherine Reyer, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Suite 300, Austin, Texas 78705, or e-mailed to legal@dob.texas.gov.

Any proposed changes to these sections as a result of the rule review will be published as proposed rules in the *Texas Register*. Proposed rules are subject to public comment for a reasonable period prior to final adoption by the commission.

TRD-202302397

Catherine Reyer
General Counsel
Texas Department of Banking
Filed: June 30, 2023



On behalf of the Finance Commission of Texas (commission), the Texas Department of Banking files this notice of intention to review and consider for readoption, revision, or repeal, the following chapter of Texas Administrative Code, Title 7, in its entirety:

Chapter 21 (Trust Company Corporate Activities), comprised of Subchapter A (§§21.1 - 21.7 and §§21.9 - 21.12); Subchapter B (§21.23 and §21.24); Subchapter C (§21.31 and §21.32); Subchapter D (§§21.41 - §21.44); Subchapter E (§21.51); Subchapter F (§§21.61 - 21.64; §§21.67 - 21.70 and §§21.72 - 21.76); and Subchapter G (§21.91 and §21.92)

The review is conducted pursuant to Government Code, §2001.039. Comments regarding the review of this chapter, and whether the reasons for initially adopting the sections under review continue to exist, will be accepted for 30 days following the publication of this notice in the *Texas Register*.

Any questions or written comments pertaining to this notice of intention to review should be directed to Catherine Reyer, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Suite 300, Austin, Texas 78705, or e-mailed to legal@dob.texas.gov.

Any proposed changes to these sections as a result of the rule review will be published as proposed rules in the *Texas Register*. Proposed rules are subject to public comment for a reasonable period prior to final adoption by the commission.

TRD-202302398

Catherine Reyer
General Counsel
Texas Department of Banking
Filed: June 30, 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 TAC Chapter 220, Regional Assessments of Water Quality.

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 220 continue to exist.

Comments regarding suggested changes to the rules in Chapter 220 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 220. 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 2023-078-220-OW. Comments must be received by August 14, 2023. For further information, please contact Sarah Whitley, Water Quality Planning Division, at (512) 239-5831.

TRD-202302425

Guy Henry
Acting Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: July 5, 2023



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 323, Waste Disposal Approvals.

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 323 continue to exist.

Comments regarding suggested changes to the rules in Chapter 323 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 323. 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 2023-079-323-OW. Comments must be received by August 14, 2023. For further information, please contact Shannon Gibson, Water Quality Division, at (512) 239-4284.

TRD-202302426

Guy Henry
Acting Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: July 5, 2023

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 333, Brownfields Initiatives.

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 333 continue to exist.

Comments regarding suggested changes to the rules in Chapter 333 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 333. 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 2023-080-333-WS. Comments must be received by August 14, 2023. For further information, please contact Anna R. Brulloths, Remediation Division, at (512) 239-5052.

TRD-202302427
Guy Henry
Acting Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: July 5, 2023

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 351, Regionalization.

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 351 continue to exist.

Comments regarding suggested changes to the rules in Chapter 351 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 351. 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 2023-076-351-OW. Comments must be received by August 14, 2023. For further information, please contact Shannon Gibson, Water Quality Division, at (512) 239-4284.

TRD-202302424
Guy Henry
Acting Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: July 5, 2023

Adopted Rule Reviews

Texas Department of Agriculture

Title 4, Part 1

The Texas Department of Agriculture (Department) has completed its review of Texas Administrative Code, Title 4, Part 1, Chapter 4, Prescribed Burning Board Enforcement Program, pursuant to Texas Government Code, Section 2001.039 (Agency Review of Existing Rules). The Department considered whether the initial factual, legal, and policy reasons for adoption of the rules in this chapter continue to exist. Notice of the rule review was published in the August 19, 2022, issue of the *Texas Register* (47 TexReg 5005) under the Review of Agency Rules section. No public comments were received as a result of the proposed rule review notice.

The Department finds that the reasons for initially adopting the rules in this chapter no longer exist and proposes the repeal of these rules. The proposed repeals can be found in the Proposed Rules section of this issue.

TRD-202302382
Skyler Shafer
Assistant General Counsel
Texas Department of Agriculture
Filed: June 29, 2023

Texas Department of Insurance, Division of Workers' Compensation

Title 28, Part 2

The Texas Department of Insurance, Division of Workers' Compensation (DWC) completed its review of 28 Texas Administrative Code Chapters 41 - 43, 45, 47, 49, 51, 53, 55, 56, 59, 61, 63 - 65, 67 and 69. DWC conducted the review under Texas Government Code §2001.039.

Notice of the review was published in the March 31, 2023, issue of the *Texas Register* (48 TexReg 1737). There were no requests for a public hearing.

DWC received one comment by the May 1, 2023, deadline. No comments suggested repealing a rule in its entirety. Commenters for readoption and for readoption with changes were: the Office of Injured Employee Counsel. Commenters against readoption were: none.

Comment on Chapters 41 - 43, 45, 47, 49, 51, 53, 55, 56, 59, 61, 63 - 65, 67 and 69. The commenter stated that the reasons for initially adopting the rules continue to exist, and that it would be to the detriment of the injured employees of Texas if DWC repeals the old law rules. Agency response to comment on Chapters 41 - 43, 45, 47, 49, 51, 53, 55, 56, 59, 61, 63 - 65, 67 and 69. DWC appreciates the comment.

As a result of the review, and in accordance with Texas Government Code §2001.039, DWC finds that the reasons for initially adopting the

The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 323, Waste Disposal Approvals, as required by Texas Government Code (TGC), §2001.039. TGC, §2001.039, requires a state agency to review and consider for readoption, readoption with amendments, or repeal each of its rules every four years. TCEQ published its Notice of Intent to Review these rules in the July 14, 2023, issue of the *Texas Register* (48 TexReg 3928).

The review assessed whether the initial reasons for adopting the rules continue to exist and TCEQ has determined that those reasons exist. The rules under Chapter 323 allow the executive director to develop a system for evaluating waste disposal facilities to determine if the design and operation merit state approval. The chapter provides conditions under which a person whose waste disposal facility attained an approved rating can erect signs to show that the facility has been approved, and establishes procedures used to evaluate waste disposal facilities after the rating system has been established.

Public Comment

The public comment period closed on August 14, 2023. TCEQ did not receive comments on the rules review of this chapter.

As a result of the review, TCEQ finds that the reasons for adopting the rules in 30 TAC Chapter 323 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. 2023-0076-MIS
Non-Rule Project No. 2023-079-323-OW

On January 24, 2024, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 Texas Administrative Code (TAC) Chapter 323, Waste Disposal Approvals, 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 July 14, 2023, issue of the *Texas Register* (48 TexReg 3928).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 323 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