

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Adoption of Rules Review & Readoption of Chapter 295

AGENDA REQUESTED: February 21, 2024

DATE OF REQUEST: February 2, 2024

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

CAPTION: Docket No. 2023-0083-MIS. Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 295, Water Rights, Procedural. 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 August 25, 2023, issue of the *Texas Register* (48 TexReg 4676). (Jade Rutledge, Ruth Takeda) (Non-Rule Project No. 2023-092-295-OW)

Cari-Michel La Caille

Director

Kim Nguyen

Division Deputy Director

Gwen Ricco

Agenda Coordinator

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** February 2, 2024

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

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

Docket No.: 2023-0083-MIS

Subject: Commission Approval for Adoption of Rules Review and Readoption of Rules
Chapter 295, Water Rights, Procedural
Rule Review of 30 TAC Chapter 295
Non-Rule Project No. 2023-092-295-OW

What the adopted action would do:

This action will approve the rules review of Chapter 295 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:

This proposed rule review is in accordance with Texas Government Code, §2001.039; and with the General Appropriations Act, 76th Texas Legislature, Regular Session, Chapter 1589, Article IX, Sec. 9-10.13 (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 295 and determined that the reasons for adopting these rules continue to exist. The rules in Chapter 295 contain the procedural requirements to implement Texas Water Code (TWC), Chapter 11, Water Rights, and TWC, Chapter 18, Marine Seawater Desalination Projects. The rules include filing and fee requirements, descriptions of the public notices required for applications, information related to contested case hearings, special actions that may be taken by the commission related to specific types of water rights, miscellaneous filing and reporting requirements, and a subchapter relating to marine seawater desalination projects. The rules are necessary for the regulation of state water by the commission.

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 September 26, 2023. No comments were received.

Commissioners
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Affected agency programs:

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
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

ter 214, Secondary Containment Requirements for Underground Storage Tank Systems Located Over Certain Aquifers.

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 214 continue to exist.

Comments regarding suggested changes to the rules in Chapter 214 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 214. 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 2023-091-214-CE. Comments must be received by September 26, 2023. For further information, please contact Zachary King, Program Support and Environmental Assistance Division, at (512) 239-1931.

TRD-202302991

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 16, 2023

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 Texas Administrative Code (TAC) Chapter 295, Water Rights, Procedural.

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 30 TAC Chapter 295 continue to exist.

Comments regarding suggested changes to the rules in 30 TAC Chapter 295 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 295. 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 2023-092-295-OW. Comments must be received by September 26, 2023. For further information, please contact Jade Rutledge, Water Availability Division, at (512) 239-4559.

TRD-202302992

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 16, 2023

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 309, Domestic Wastewater Effluent Limitation and Plant Siting.

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 309 continue to exist.

Comments regarding suggested changes to the rules in Chapter 309 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 309. 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 2023-094-309-OW. Comments must be received by September 26, 2023. For further information, please contact Shannon Gibson, Water Quality Division, at (512) 239-4284.

TRD-202302994

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 16, 2023

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 350, Texas Risk Reduction Program.

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 350 continue to exist.

Comments regarding suggested changes to the rules in Chapter 350 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 350. 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

The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 295, Water Rights, Procedural, 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 August 25, 2023 issue of the *Texas Register* (48 TexReg 4676).

The review assessed whether the initial reasons for adopting the rules continue to exist and TCEQ has determined that those reasons exist. The rules in Chapter 295 contain the procedural requirements to implement Texas Water Code (TWC), Chapter 11, Water Rights, and TWC, Chapter 18, Marine Seawater Desalination Projects. The rules include filing and fee requirements, descriptions of the public notices required for applications, information related to contested case hearings, special actions that may be taken by TCEQ related to specific types of water rights, miscellaneous filing and reporting requirements, and a subchapter relating to marine seawater desalination projects. The rules are necessary for the regulation of state water by TCEQ.

Public Comment

The public comment period closed on September 26, 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 295 continue to exist and readopts these sections in accordance with the requirements of TGC, §2001.039.

Texas Commission on Environmental Quality



ORDER ADOPTING RULES REVIEW AND READOPTING RULES

Docket No. 2023-0083-MIS
Non-Rule Project No. 2023-092-295-OW

On February 21, 2024, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 Texas Administrative Code (TAC) Chapter 295, Water Rights, Procedural, 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 August 25, 2023, issue of the *Texas Register* (48 TexReg 4676).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 295 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