

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
**AGENDA ITEM REQUEST**  
for Adoption of Rules Review & Readoption of Chapter 214

**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. 2023-0084-MIS.** Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 214, Secondary Containment Requirements for Underground Storage Tank Systems Located Over Certain Aquifers. 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 4675). (Zachary King, Michael Parr) (Non-Rule Project No. 2023-091-214-CE)

Craig Pritzlaff  
**Director**

Andy Gardner  
**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:** Craig Pritzlaff, Director  
Office of Compliance and Enforcement

**Docket No.:** 2023-0084-MIS

**Subject:** Commission Approval for Adoption of Rule Review and Readoption of Rules Chapter 214, Secondary Containment Requirements for Underground Storage Tank Systems Located Over Certain Aquifers  
Rule Review of 30 TAC Chapter 214  
Non-Rule Project No. 2023-091-214-CE

**What the adopted action will do:**

This action will approve the rules review of Chapter 214 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 with 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 214 and determined that the reasons for adopting these rules continue to exist. The rules in Chapter 214 implement Texas Water Code (TWC), §26.3476 (adopted by the 77th Legislature, 2001), by establishing requirements for underground storage tank (UST) systems over certain aquifers to incorporate a method of secondary containment. These rules were additional requirements beyond those in 30 Texas Administrative Code TAC Chapter 213 and Chapter 334. In 2008, Chapter 334 rules were amended to require secondary containment for new-installation UST systems after January 1, 2009, State-wide (not just areas over certain aquifers, described in Chapter 214). However, because Chapter 214 rules continue to be relevant to UST installations which occurred prior to January 1, 2009, the rules are needed. TWC, §26.345, authorizes the commission to develop a regulatory program regarding underground and aboveground storage tanks, and to adopt rules necessary to carry out that purpose. These rules are necessary to protect and maintain the quality of groundwater resources in the state from environmental contamination that could result from releases of harmful substances stored in such tanks.

**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.

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**Affected agency programs:**

The program areas responsible for implementing these rules are the Petroleum Storage Tank (PST) Program in the Remediation Division, the PST Registration Program in the Permitting and Registration Support Division in the Office of Waste, and the Office of Compliance and Enforcement.

**Agency contacts:**

Zachary King, Project Manager, Program Support and Environmental Assistance Division,  
(512) 239-1931

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

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

**Attachments:**

Notice of Intention to Review

cc: Chief Clerk, 7 copies

# 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

Texas Department of Insurance, Division of Workers' Compensation

### Title 28, Part 2

The Texas Department of Insurance, Division of Workers' Compensation (DWC) will review all sections in 28 Texas Administrative Code:

- Chapter 102 (Practices and Procedures--General Provisions);
- Chapter 104 (General Provisions--Rule-Making);
- Chapter 109 (Workers' Compensation Coverage for State Employees);
- Chapter 110 (Required Notices of Coverage);
- Chapter 112 (Scope of Liability for Compensation);
- Chapter 114 (Self-Insurance); and
- Chapter 116 (General Provisions--Subsequent Injury Fund).

This review complies with the requirements for periodic rule review under Texas Government Code §2001.039.

DWC will consider whether the reasons for initially adopting these rules continue to exist, and whether these rules should be repealed, readopted, or readopted with amendments.

### Comments

To comment on this review, you must:

- Submit your written comments by 5:00 p.m., Central time, on October 3, 2023.
- Specify the rule to which your comment applies.
- Include any proposed alternative language.

Send your written comments or hearing request to RuleComments@tdi.texas.gov or to:

Legal Services, MC-LS

Texas Department of Insurance, Division of Workers' Compensation

P.O. Box 12050

Austin, Texas 78711-2050

DWC may consider any suggested repeals or amendments identified during this rule review in future rulemaking under Texas Government Code Chapter 2001 (Administrative Procedure).

TRD-202302977

Kara Mace

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Filed: August 15, 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 111, Control of Air Pollution from Visible Emissions and Particulate Matter.

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 111 continue to exist.

Comments regarding suggested changes to the rules in Chapter 111 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 111. 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 2023-077-111-AI. Comments must be received by September 26, 2023. For further information, please contact Elizabeth Sartain, Air Quality Division, at (512) 239-3933.

TRD-202302993

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 Chap-

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) files this Notice of Intention to Review 30 Texas Administrative Code (TAC) Chapter 214, Secondary Containment Requirements for Underground Storage Tank Systems Located Over Certain Aquifers, 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 4675).

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 214 are required to implement Texas Water Code (TWC), §26.3476 (adopted by the 77th Legislature, 2001), by establishing requirements for underground storage tank systems over certain aquifers to incorporate a method of secondary containment.

#### 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 214 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. 2023-0084-MIS  
Non-Rule Project No. 2023-091-214-CE

On February 21, 2024, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 Texas Administrative Code (TAC) Chapter 214, Rule Review of Chapter 214 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 August 25, 2023, issue of the *Texas Register* (48 TexReg 4675).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 214 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