

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
**AGENDA ITEM REQUEST**  
for Adoption of Rules Review & Readoption of Chapter 213

**AGENDA REQUESTED:** March 6, 2024

**DATE OF REQUEST:** February 16, 2024

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

**CAPTION: Docket No. 2023-0103-MIS.** Consideration for the adoption of the rules review and readoption of 30 Texas Administrator Code (TAC) Chapter 213, Edwards Aquifer. 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 September 8, 2023, issue of the *Texas Register* (48 TexReg 5074). (Zachary King, Michael Parr) (Non-Rule Project No. 2023-098-213-CE)

  
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Director

  
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Division Deputy Director

  
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Agenda Coordinator

# Texas Commission on Environmental Quality

## Interoffice Memorandum

**To:** Commissioners **Date:** February 16, 2024

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

**From:** Craig Pritzlaff, Director  
Office of Compliance and Enforcement

**Docket No.:** 2023-0103-MIS

**Subject:** Commission Approval for Adoption of Rule Review and Readoption of Rules Chapter 213, Edwards Aquifer  
Rule Review of 30 TAC Chapter 213  
Non-Rule Project No. 2023-098-213-CE

### **What the adopted action will do:**

This action will approve the rules review of Chapter 213 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 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 213 and determined that the reasons for adopting these rules continue to exist. The rules in Chapter 213 regulate activities that pose a threat to water quality in order to protect existing and potential uses of groundwater and maintain Texas Surface Water Quality Standards. The rules in Chapter 213 regulate activities having the potential to adversely affect the water quality of the Edwards Aquifer and hydrologically-connected surface water to protect existing and potential beneficial uses of groundwater. The activities addressed are those that pose a threat to water quality in the recharge, transition, and contributing zones of the Edwards Aquifer in Medina, Bexar, Comal, Kinney, Uvalde, Hays, Travis, and Williamson counties.

The rules in Chapter 213, Subchapter A apply to all regulated activity within the recharge zone and certain activity within the transition zone. Regulated activity includes any construction-related or post-construction activities on the recharge zone of the Edwards Aquifer having the potential for polluting the aquifer and hydrologically-connected surface streams. These activities include, but are not limited to, the construction of residential, commercial, or industrial sites, utility lines, roads and highways, sewage collection systems, or aboveground storage tank (AST) or underground storage tank (UST) facilities for static hydrocarbons or hazardous substances. Clearing, excavation, or any other activity which alters or disturbs the topographic, geologic, or existing recharge characteristics of a site is also considered a regulated activity.

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The rules in Chapter 213, Subchapter B regulate activity in the contributing zone to the Edwards Aquifer having the potential for polluting surface streams which recharge the Edwards Aquifer. These activities include, but are not limited to, the construction of residential, commercial, or industrial sites, utility lines, roads, highways, or AST facilities for static hydrocarbons or hazardous substances. Clearing, excavation, or any other activity which alters or disturbs the topographic, geologic, or existing storm water runoff characteristics of a site is also considered a regulated activity. The rules in Chapter 213, Subchapter B apply only to regulated activities disturbing at least five acres, or regulated activities disturbing less than five acres which are part of a larger common plan of development or sale with the potential to disturb cumulatively five or more acres.

The rules in Chapter 213, Subchapter C exempt discharges associated with pesticide applications from prohibition of increased pollutant loads outlined in Chapter 213, Subchapters A and B.

**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 October 9, 2023. No comments were received.

**Affected agency programs:**

The program area responsible for implementing these rules is 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

by October 9, 2023. For further information, please contact Kathy Humphreys, Environmental Law Division, at (512) 239-3417.

TRD-202303189

Charmaine K. Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 29, 2023

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 60, Compliance History.

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 60 continue to exist.

Comments regarding suggested changes to the rules in Chapter 60 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 rule-making action by the commission.

#### Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 60. 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 2023-096-060-CE. Comments must be received by October 9, 2023. For further information, please contact Brandy Wright, Enforcement Division, at (512) 239-2530.

TRD-202303180

Gitanjali Yadav

Deputy Director, Litigation Division

Texas Commission on Environmental Quality

Filed: August 29, 2023

The Texas Commission on Environmental Quality files this Notice of Intention to Review 30 Texas Administrative Code Chapter 213, Edwards Aquifer.

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, TCEQ will assess whether the reasons for initially adopting the rules in Chapter 213 continue to exist.

Comments regarding suggested changes to the rules in Chapter 213 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 TCEQ.

#### Submittal of Comments

TCEQ invites public comment on this review of the rules in Chapter 213. 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: [tceq.commentinput.com](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 2023-098-213-CE. Comments must be received by October 9, 2023. For further information, please contact Zachary King, Program Support and Environmental Assistance Division, at (512) 239-1931.

TRD-202303182

Charmaine K. Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 29, 2023

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 230, Groundwater Availability Certifications for Platting.

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, TCEQ will assess whether the reasons for initially adopting the rules in Chapter 230 continue to exist.

Comments regarding suggested changes to the rules in Chapter 230 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 TCEQ.

#### Submittal of Comments

TCEQ invites public comment on this review of the rules in Chapter 230. 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: [tceq.commentinput.com](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 2023-099-230-OW. Comments must be received by October 9, 2023. For further information, please contact Jade Rutledge, Water Availability Division, at (512) 239-4559.

TRD-202303186

Charmaine K. Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 29, 2023

The Texas Commission on Environmental Quality files this Notice of Intention to Review 30 Texas Administrative Code Chapter 307, Texas Surface Water Quality Standards.

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, TCEQ will assess whether the reasons for initially adopting the rules in Chapter 307 continue to exist.

Comments regarding suggested changes to the rules in Chapter 307 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 TCEQ.

The Texas Commission on Environmental Quality (TCEQ) files this Notice of Intention to Review 30 Texas Administrative Code (TAC) Chapter 213, Edwards Aquifer, 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 September 8, 2023, issue of the *Texas Register* (48 TexReg 5074).

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 213 remain necessary to regulate activities posing a threat to groundwater quality of the Edwards Aquifer and maintain Texas Surface Water Quality Standards in hydrologically-connected surface waters.

#### Public Comment

The public comment period closed on October 9, 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 213 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. 2023-0103-MIS  
Non-Rule Project No. 2023-098-213-CE

On February 21, 2024, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 Texas Administrative Code (TAC) Chapter 213, Rule Review of Chapter 213 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 September 8, 2023, issue of the *Texas Register* (48 TexReg 5074).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 213 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