


TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
**AGENDA ITEM REQUEST**  
for Adoption of Rules Review & Readoption of Chapter 70

**AGENDA REQUESTED:** March 28, 2024

**DATE OF REQUEST:** March 8, 2024

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

**CAPTION: Docket No. 2023-0106-MIS.** Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 70, Enforcement. 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 22, 2023, issue of the *Texas Register* (48 TexReg 5554). (Rebecca Boyett, Tracy Chandler) (Non-Rule Project No. 2023-101-070-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:** March 8, 2024

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

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

**Docket No.:** 2023-0106-MIS

**Subject:** Commission Approval for Adoption of Rules Review and Readoption of Rules  
Chapter 70, Enforcement  
Rules Review of 30 Texas Administrative Code Chapter 70  
Non-Rule Project No. 2023-101-070-CE

**What the adopted action would do:**

This action will approve the rules review of Chapter 70, 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, §9-10.13, 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 70 and determined that the reasons for adopting these rules continue to exist. The rules in Chapter 70 are necessary to implement the commission's enforcement authority under Texas Water Code (TWC), §7.002 of laws within the commission's jurisdiction and to establish the procedures whereby enforcement matters are handled by the commission. The commission is required to adopt rules necessary to carry out its powers and duties under the TWC and other laws of the state, and to adopt reasonable procedural rules to be followed in a commission hearing (TWC, §5.103). The commission is required to adopt rules of practice stating the nature of all available formal and informal procedures (Texas Government Code, §2001.004). The rules also authorize the executive director to pursue an enforcement matter through court action (by referring the matter to the Texas Attorney General), as is contemplated in TWC, §5.230. Subchapter D, Criminal Enforcement Review, is needed to implement the Commission's authority under TWC, §7.203.

**Rules found to be obsolete:**

None.

Commissioners

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Re: Docket No. 2023-0106-MIS

**Public comment:**

A public hearing was not offered for this review. The comment period for the rules review closed on October 23, 2023. No comments were received.

**Affected agency program(s):**

The program areas responsible for implementing these rules include the Office of Compliance and Enforcement, Office of Legal Services, Office of General Counsel, Office of Public Interest Counsel, Office of the Chief Clerk, and Office of Administrative Services.

**Agency contacts:**

Rebecca Boyett, Project Manager, Enforcement Division, (512) 239-2503

Tracy Chandler, Staff Attorney, Litigation Division, (512) 239-0629

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

Jessica Miller  
Director, Rules Coordination Office  
Department of State Health Services  
Filed: September 11, 2023

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Texas Commission on Environmental Quality

**Title 30, Part 1**

The Texas Commission on Environmental Quality (TCEQ) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 70, Enforcement.

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 70 continue to exist.

Comments regarding suggested changes to the rules in Chapter 70 may be submitted but will not be considered for rule amendments as part of this review. Any such comments will be considered in a future rule-making action.

Submittal of Comments

TCEQ invites public comment on this preliminary review of the rules in Chapter 70. Written comments may be submitted to Ms. 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 2023-101-070-CE. Comments must be received by October 23, 2023. For further information, please contact Rebecca Boyett, Project Manager, Enforcement Division at (512) 239-2503.

TRD-202303396  
Charmaine Backens  
Deputy Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Filed: September 13, 2023

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The Texas Commission on Environmental Quality (TCEQ) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 210, Reclaimed 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 readoption, readoption with amendments, or repeal every four years. During this review, TCEQ will assess whether the initial reasons for adopting the rules in Chapter 210 continue to exist.

Comments regarding suggested changes to the rules in Chapter 210 may be submitted but will not be considered for rule amendments as part of this review. Any such comments will be considered in a future rulemaking action.

Submittal of Comments

TCEQ invites public comment on this preliminary review of the rules in Chapter 210. 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 2023-104-210-OW. Comments must be received by October 23, 2023. For further information, please contact Shannon Gibson, Water Quality Division, at (512) 239-4284.

TRD-202303398  
Charmaine Backens  
Deputy Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Filed: September 13, 2023

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The Texas Commission on Environmental Quality (TCEQ) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 285, On-Site Sewage Facilities.

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 285 continue to exist.

Comments regarding suggested changes to the rules in Chapter 285 may be submitted but will not be considered for rule amendments as part of this review. Any such comments will be considered in a future rulemaking action.

Submittal of Comments

TCEQ invites public comment on this preliminary review of the rules in Chapter 285. 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 2023-105-285. Comments must be received by October 23, 2023. For further information, please contact Zachary King, Program Support and Environmental Assistance Division, at (512) 239-1931.

TRD-202303399  
Charmaine Backens  
Deputy Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Filed: September 13, 2023

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The Texas Commission on Environmental Quality (TCEQ) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 294, Priority Groundwater Management Areas.

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 294 continue to exist.

Comments regarding suggested changes to the rules in Chapter 294 may be submitted but will not be considered for rule amendments as part of this review. Any such comments will be considered in a future rulemaking action.

The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 70, Enforcement, 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. The commission published its Notice of Intent to Review these rules in the September 22, 2023, issue of the *Texas Register* (48 TexReg 5554).

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 70 are required because the rules implement TCEQ's enforcement authority under Texas Water Code (TWC), §7.002 of laws within the TCEQ's jurisdiction and to establish the procedures whereby enforcement matters are handled by the TCEQ. TCEQ is required to adopt rules necessary to carry out its powers and duties under the TWC and other laws of the state, and to adopt reasonable procedural rules to be followed in a TCEQ hearing (TWC, §5.103). TCEQ is required to adopt rules of practice stating the nature of all available formal and informal procedures (Texas Government Code, §2001.004).

The rules also authorize the executive director to pursue an enforcement matter through court action (by referring the matter to the Texas Attorney General), as is contemplated in TWC, §5.230. Subchapter D, Criminal Enforcement Review, is needed to implement the Commission's authority under TWC, §7.203.

Public Comment

The public comment period closed on October 23, 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 70 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. 2023-0106-MIS  
Non-Rule Project No. 2023-101-070-CE

On March 28, 2024, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 Texas Administrative Code (TAC) Chapter 70, Enforcement 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 22, 2023, issue of the *Texas Register* (48 TexReg 5554).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 70 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