

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Adoption of Rules Review & Readoption of Chapter 294

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. 2023-0110-MIS. Consideration for the adoption of the rules review and readoption of 30 Texas Administrative Code Chapter 294, Priority Groundwater Management Areas. 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). (Jade Rutledge, Kayla Murray) (Non-Rule Project No. 2023-102-294-OW)

Cari-Michel La Caille

Director

Kim Nye

Division Deputy Director

Gwen Ricco

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

Docket No.: 2023-0110-MIS

Subject: Commission Approval for Adoption of Rules Review and Readoption of Rules
Chapter 294, Priority Groundwater Management Areas
Rule Review of 30 TAC Chapter 294
Non-Rule Project No. 2023-102-294-OW

What the proposed action would do:

This action will approve the rules review of Chapter 294 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 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 294 and determined that the reasons for adopting these rules continue to exist. Chapter 294 implements the requirements of Texas Water Code, Chapter 35, which allows TCEQ to identify, study, and designate priority groundwater management areas.

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 23, 2023. No comments were received.

Affected agency programs:

The program area responsible for implementing these rules is the Water Availability Division.

Commissioners

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March 8, 2024

Re: Docket No. 2023-0110-MIS

Agency contacts:

Jade Rutledge, Project Manager, Water Availability Division, (512) 239-4559

Kayla Murray, Staff Attorney, Environmental Law Division, (512) 239-4761

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

◆ ◆ ◆
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 re adoption, re adoption 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

◆ ◆ ◆
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 re adoption, re adoption 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

◆ ◆ ◆
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 re adoption, re adoption 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

◆ ◆ ◆
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 re adoption, re adoption 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.

Submittal of Comments

TCEQ invites public comment on this preliminary review of the rules in Chapter 294. 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 2023-102-294-OW. Comments must be received by October 23, 2023. For further information, please contact Jade Rutledge, Water Availability Division, at (512) 239-4559.

TRD-202303397

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: September 13, 2023



Adopted Rule Reviews

Texas Commission on Environmental Quality

Title 30, Part 1

The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 1, Purpose of Rules, General Provisions as required by Texas Government Code, §2001.039. Texas Government Code, §2001.039, requires a state agency to review and consider for re-adoption, re-adoption with amendments, or repeal each of its rules every four years. TCEQ published its Notice of Intent to Review these rules in the April 21, 2023, issue of the *Texas Register* (48 TexReg 2141).

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 1 are required to implement the powers and duties of TCEQ under the Texas Water Code, the Texas Health and Safety Code, and other laws, to establish the general policies of TCEQ, and to set forth procedures to be followed in agency proceedings.

Public Comment

The public comment period closed on May 22, 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 1 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202303310

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: September 8, 2023



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code Chapter 21, Water Quality Fees, as required by Texas Government Code, §2001.039. Texas Government Code, §2001.039, requires a state agency to review and consider for re-adoption, re-adoption with amendments, or repeal each of its rules every four years. TCEQ published its Notice of Intent to Review these rules in the April 21, 2023, issue of the *Texas Register* (48 TexReg 2141).

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 21 are required to establish annual fees that are assessed against wastewater permit holders authorized to discharge into or adjacent to water in the state and against each person holding a right to impound, divert, or use state water. The annual fees are necessary to support the following programs and activities conducted by TCEQ:

1. water quality administration, including, but not limited to, inspection of wastewater treatment facilities and enforcement of Texas Water Code (TWC), Chapter 26, the rules and orders of the commission related to wastewater discharges and wastewater treatment facilities, and the provisions of wastewater discharge permits;
2. the Texas Clean Rivers Program, which monitors and assesses water quality conditions that support water quality management decisions necessary to maintain and improve the quality of the state's water resources; and
3. any other water resource management programs reasonably related to the activities of the persons required to pay a fee under TWC, §26.0291.

Public Comment

The public comment period closed on May 22, 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 21 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202303305

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: September 8, 2023



The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 115, Control of Air Pollution from Volatile Organic Compounds, as required by Texas Government Code, §2001.039. Texas Government Code, §2001.039, requires a state agency to review and consider for re-adoption, re-adoption with amendments, or repeal each of its rules every four years. TCEQ published its Notice of Intent to Review these rules in the April 7, 2023, issue of the *Texas Register* (48 TexReg 1857).

The review assessed whether the initial reasons for adopting the rules continue to exist, and TCEQ has determined that those reasons exist. The rules for control of volatile organic compounds (VOC) emissions in Chapter 115 were specifically developed to meet the federal Clean Air Act (CAA) requirements for attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) for ozone set by the United States Environmental Protection Agency (EPA).

States are primarily responsible for ensuring attainment and maintenance of the NAAQS once the EPA has established those standards. Under 42 United States Code, §7410 and related provisions, states must submit revisions to their state implementation plans (SIP) for EPA approval that provide for the attainment and maintenance of the NAAQS through control programs directed to sources of the pollutants involved. VOC are precursor pollutants in the formation of ozone, and the rules in Chapter 115 form a significant component of the Texas SIP to attain and maintain the NAAQS for ozone.

The review resulted in a determination that the following rules are obsolete: Stage II vapor recovery requirements; provisions allowing for

The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 294, Priority Groundwater Management Areas, 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 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 294 are required because Chapter 294 implements the requirements of Texas Water Code, Chapter 35, which allows TCEQ to identify, study, and designate priority groundwater management areas.

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 294 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. 2023-0110-MIS
Non-Rule Project No. 2023-102-294-OW

On March 28, 2024, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 Texas Administrative Code (TAC) Chapter 294, Priority Groundwater Management Areas, 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 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 294 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