

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Adoption of Rules Review & Readoption of Chapter 210

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. 2023-0111-MIS. Consideration for the adoption of the rules review and readoption of 30 Texas Administrative Code Chapter 210, Use of Reclaimed Water. 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). (Shannon Gibson, Michael Parr) (Non-Rule Project No. 2023-104-210-OW)

Cari-Michel LaCaille

Director

Robert Sadlier

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: Cari-Michel La Caille, Director
Office of Water

Docket No.: 2023-0111-MIS

Subject: Commission Approval for Adoption of Rules Review and Readoption of Rules
Chapter 210, Reclaimed Water
Rules Review of 30 TAC Chapter 210
Non-Rule Project No. 2023-104-210-OW

What the adopted action would do:

This action will approve the rules review of Chapter 210, 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 the General Appropriations Act, Article IX, §9-10.13, 76th Texas Legislature, 1999, which require state agencies to review and consider for re-adoption each of their rules every four years.

Reason rules are needed:

Executive director's staff conducted a review of the rules in Chapter 210 and determined that the reasons for adopting these rules continue to exist. The rules under Chapter 210 are needed to establish water quality criteria and design and operational requirements for the reuse of reclaimed water. The requirements encourage and facilitate the reuse of treated domestic wastewater effluent, treated industrial wastewater effluent, graywater, and alternative onsite water for beneficial purposes. The rules assist in the conservation of surface water and groundwater, ensure the protection of public health, protect the quality of surface water and groundwater, and help ensure an adequate supply of water for present and future needs. These sections do not affect any current requirements necessitating the need for a water right or amendment, if applicable to a particular reclaimed water use or activity.

Chapter 210 also establishes requirements to protect the health of persons who might normally come into contact with reclaimed water; protect against adverse effects from reclaimed water should crops be irrigated with reclaimed water; and ensure that the conveyance, storage, and use of reclaimed water will not cause adverse effects to surface water, groundwater, and soil resources.

Rules found to be obsolete:

None.

Commissioners

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Re: Docket No. 2023-0111-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 area(s) responsible for implementing these rules are organized under the Water Quality Division.

Agency contacts:

Shannon Gibson, Project Manager, Water Quality Division, (512) 239-4284

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

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 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.

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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 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.

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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 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.

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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 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.

The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 210, Use of Reclaimed Water 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 210 are required because Chapter 210 provides for the use of reclaimed water. Subchapter A, General Provisions, applies to the reclaimed water producer, provider, and user. Subchapter B, General Requirements for the Production, Conveyance, and Use of Reclaimed Water, establishes general requirements applicable to producers, providers, and users of reclaimed water. This subchapter also establishes requirements and specifications for transfer, storage, and irrigation using reclaimed water and design criteria of reclaimed water systems. Additionally, this subchapter establishes requirements and specifications necessary to minimize discharges of waste into or adjacent to waters in the state. Subchapter C, Quality Criteria and Specific Uses for Reclaimed Water, applies to the reclaimed water producer, provider, and user. This subchapter sets the specific uses, the quality standards, as well as the monitoring, recordkeeping, and reporting standards for reclaimed water. Subchapter D, Alternative and Pre-Existing Reclaimed Water Systems, contains provisions in the event a reclaimed water provider or user proposes to design, construct, or operate a reclaimed

water system or to utilize reclaimed water in a manner other than authorized in these rules. Subchapter E, Special Requirements for Use of Industrial Reclaimed Water, establishes the applicable requirements for industrial reclaimed water use which may be used instead of potable water or raw water. Subchapter F, Use of Graywater and Alternative Onsite Water, establishes the applicable requirements for residential, commercial, industrial, institutional, and agricultural reuse of graywater and alternative onsite water which may be used instead of potable water for landscape irrigation, gardening, composting, foundation stabilization, toilet/urinal flushing, process water, dust control, and other similar uses.

The rules in Chapter 210 are needed to require reclaimed water quality criteria and design and operational requirements for the reuse of reclaimed water. The requirements encourage and facilitate the reuse of treated domestic wastewater effluent, treated industrial wastewater effluent, graywater, and alternative onsite water for beneficial purposes. The rules assist in the conservation of surface water and groundwater, ensure the protection of public health, protect the quality of surface water and groundwater, and help ensure an adequate supply of water for present and future needs. These sections do not affect any current requirements necessitating the need for a water right or amendment, if applicable to a particular reclaimed water use or activity.

Chapter 210 establishes requirements to protect the health of persons who might normally come into contact with reclaimed water; protect against adverse effects from reclaimed water should crops be irrigated with reclaimed water; and ensure that the

conveyance, storage, and use of reclaimed water will not cause adverse effects to surface water, groundwater, and soil resources.

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 210 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. 2023-0111-MIS
Non-Rule Project No. 2023-104-210-OW

On March 28, 2024, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 Texas Administrative Code (TAC) Chapter 210, Use of Reclaimed Water 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 210 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