

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Adoption of Rules Review & Readoption of Chapter 318

AGENDA REQUESTED: August 16, 2023

DATE OF REQUEST: July 28, 2023

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

CAPTION: Docket No. 2023-0230-MIS. Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 318, Marine Seawater Desalination Discharges. 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 April 7, 2023, issue of the *Texas Register* (Vol. 48 TexReg pages 1857-8). (Shannon Gibson, Bobby Salehi) (Non-Rule Project No. 2023-043-318-OW)

Cari-Michel LaCaille

Deputy Director

Robert Sadlier

Division Director

Gwen Ricco

Agenda Coordinator

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** July 28, 2023

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

From: Cari-Michel LaCaille, Director
Office of Water

Docket No.: 2023-0230-MIS

Subject: Commission Approval for Adoption of Rules Review and Readoption of Rules
Chapter 318, Marine Seawater Desalination Discharges
Rules Review of 30 TAC Chapter 318
Non-Rule Project No. 2023-043-318-OW

What the adopted action would do:

This action will approve the rules review of Chapter 318, 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 readoption each of their rules every four years.

Reason rules are needed:

Executive director's staff conducted a review of the rules in Chapter 318 and determined that the reasons for adopting these rules continue to exist. The rules in Chapter 318 are required to implement Texas Water Code, Chapter 18 by establishing an expedited permitting process for the discharge of treated marine seawater and waste resulting from the desalination of marine seawater.

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 May 8, 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 and the Office of Compliance and Enforcement.

Agency contacts:

Shannon Gibson, Project Manager, Water Quality Division, (512) 239-4284
Bobby Salehi, Staff Attorney, Environmental Law Division, (512) 239-5930
Gwen Ricco, Texas Register/Agenda Coordinator, General Law Division, (512) 239-2678

Commissioners

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July 28, 2023

Re: Docket No. 2023-0230-MIS

Attachments:

Texas Register publication of Proposed Rule Review Notice

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 Commission on Environmental Quality

Title 30, Part 1

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 115, Control of Air Pollution from Volatile Organic Compounds.

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, the commission will assess whether the reasons for initially adopting the rules in Chapter 115 continue to exist.

Comments regarding suggested changes to the rules in Chapter 115 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 115. 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 2023-045-115-AI. Comments must be received by May 8, 2023. For further information, please contact Jamie Zech, Air Quality Division, at (512) 239-3935.

TRD-202301223

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: March 29, 2023



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 117, Control of Air Pollution from Nitrogen Compounds.

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, the com-

mission will assess whether the reasons for initially adopting the rules in Chapter 117 continue to exist.

Comments regarding suggested changes to the rules in Chapter 117 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 117. 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 2023-041-117-AI. Comments must be received by May 8, 2023. For further information, please contact Jamie Zech, Air Quality Division, at (512) 239-3935.

TRD-202301219

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: March 29, 2023



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 318, Marine Seawater Desalination Discharges.

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, the commission will assess whether the reasons for initially adopting the rules in Chapter 318 continue to exist.

Comments regarding suggested changes to the rules in Chapter 318 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 318. 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 2023-043-318-OW. Comments must be received by May 8, 2023. For further information, please contact Shannon Gibson, Water Quality Division, at (512) 239-4284.

TRD-202301221

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: March 29, 2023

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 327, Spill Prevention and Control.

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 327 continue to exist.

Comments regarding suggested changes to the rules in Chapter 327 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 327. 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 2023-034-327-CE. Comments must be received by May 8, 2023. For further information, please contact Zachary King, Program Support and Environmental Assistance Division, at (512) 239-1931.

TRD-202301220

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: March 29, 2023

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 332, Composting.

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 332 continue to exist.

Comments regarding suggested changes to the rules in Chapter 332 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 332. 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 2023-044-332-WS. Comments must be received by May 8, 2023. For further information, please contact Jarita Sepulvado, Waste Permits Division, at (512) 239-4413.

TRD-202301222

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: March 29, 2023

Texas Juvenile Justice Department

Title 37, Part 11

The Texas Juvenile Justice Department (TJJD) proposes the review of Title 37, Texas Administrative Code, Chapter 385, Agency Management and Operations, in accordance with §2001.039, Texas Government Code.

An assessment will be made by TJJD to determine whether the reasons for adopting or readopting the rules in the chapter continue to exist and whether the rules reflect current legal and policy considerations and current TJJD procedure.

Comments on the review may be submitted within 30 days after publication of this notice to Texas Juvenile Justice Department, Central Services Building, Attention: Policy and Standards Section, 1711 San Jacinto Blvd, Austin, Texas 78701. Comments may also be sent via email to policy.proposals@tjjd.texas.gov.

TRD-202301190

Christian von Wupperfeld

General Counsel

Texas Juvenile Justice Department

Filed: March 27, 2023

Adopted Rule Reviews

Commission on State Emergency Communications

Title 1, Part 12

The Commission on State Emergency Communications (CSEC) has concluded the statutory review of its Chapter 255 rules conducted in accordance with Government Code §2001.039. CSEC's notice of intent to review Chapter 255 was published in the February 10, 2023, issue of the *Texas Register* (48 TexReg 719.)

No comments were received regarding CSEC's notice of review.

CSEC's review assessed and determined that the original reasons and justifications for adopting each rule in Chapter 255 continue to exist, reflect current legal and policy considerations, and the rules are within the agency's legal authority as certified by legal counsel.

Based on its review, CSEC readopts Chapter 255 without amendment. This notice concludes CSEC's review of its Chapter 255 rules.

TRD-202301148

The Texas Commission on Environmental Quality (TCEQ or commission) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 318, Marine Seawater Desalination Discharges, 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 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 the commission has determined that those reasons exist. Chapter 318 implements Texas Water Code, Chapter 18 by establishing an expedited permitting process for the discharge of treated marine seawater and waste resulting from the desalination of marine seawater.

Public Comment

The public comment period closed on May 8, 2023. The commission did not receive comments on the rules review of this chapter.

As a result of the review the commission finds that the reasons for adopting the rules in 30 TAC Chapter 318 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039.

Texas Commission on Environmental Quality



ORDER ADOPTING RULES REVIEW AND READOPTING RULES

Docket No. 2023-0230-MIS
Non-Rule Project No. 2023-043-318-OW

On August 16, 2023, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 TAC Chapter 318, Marine Seawater Desalination Discharges 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 April 7, 2023, issue of the *Texas Register* (48 TexReg 1857).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 318 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