

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
**AGENDA ITEM REQUEST**  
for Adoption of Rules Review & Readoption of Chapter 352

**AGENDA REQUESTED:** April 12, 2024

**DATE OF REQUEST:** March 22, 2024

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

**CAPTION: Docket No. 2023-0933-MIS.** Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 352, Coal Combustion Residuals Waste Management. 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 October 6, 2023, issue of the *Texas Register* (48 TexReg 5829). (Jarita Sepulvado, Don Redmond) (Non-Rule Project No. 2023-119-352-WS)

Beth Seaton  
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**Director**

Charly Frit  
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**Division Deputy Director**


Gwen Ricco  
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**Agenda Coordinator**

# Texas Commission on Environmental Quality

## Interoffice Memorandum

**To:** Commissioners **Date:** March 22, 2024

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

**From:** Beth Seaton, Director   
Office of Waste

**Docket No.:** 2023-0933-MIS

**Subject:** Commission Approval for Adoption of Rules Review and Readoption of Rules  
Chapter 352, Coal Combustion Residuals Waste Management  
Rules Review of 30 TAC Chapter 352  
Non-Rule Project No. 2023-119-352-WS

**What the adopted action would do:**

This action will approve the rules review of Chapter 352 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 352 and determined that the reasons for adopting these rules continue to exist. The rules in Chapter 352 implement the requirements of 40 Code of Federal Regulations Part 257, Subpart D for management of coal combustion residuals (CCR) in landfills and surface impoundments and implement procedural requirements for the state's CCR registration and compliance monitoring programs. TCEQ administers an EPA-approved CCR program in Texas by application of the rules in Chapter 352.

**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 November 6, 2023. No comments were received.

**Affected agency program(s):**

The program areas responsible for implementing these rules include the Office of Waste, Office of Compliance and Enforcement, and Office of Legal Services.

**Agency contacts:**

Commissioners

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March 22, 2024

Re: Docket No. 2023-0933-MIS

Jarita Sepulvado, Project Manager, Waste Permits Division, (512) 239-4413

Don Redmond, Staff Attorney, Environmental Law Division, (512) 239-0612

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

The Texas Commission on Environmental Quality (TCEQ) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 55, Requests for Reconsideration and Contested Case Hearings; Public Comment.

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 55 continue to exist.

Comments regarding suggested changes to the rules in Chapter 55 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 by TCEQ.

#### Submittal of Comments

TCEQ invites public comment on this preliminary review of the rules in Chapter 55. 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: [www.tceq.commentinput.com/](http://www.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 2023-039-055-LS. Comments must be received by November 6, 2023. For further information, please contact Amy Browning, Environmental Law Division, at (512) 239-0891.

TRD-202303578

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: September 27, 2023



The Texas Commission on Environmental Quality (TCEQ) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 299, Dams and Reservoirs.

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 299 continue to exist.

Comments regarding suggested changes to the rules in Chapter 299 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 by TCEQ.

#### Submittal of Comments

TCEQ invites public comment on this preliminary review of the rules in Chapter 299. 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: [www.tceq.commentinput.com/](http://www.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 2023-093-299-CE. Comments must be received by November 6, 2023. For further information, please contact Trina Lancaster, Critical Infrastructure Division, at (512) 239-4283.

TRD-202303575

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: September 27, 2023



The Texas Commission on Environmental Quality (TCEQ) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 352, Coal Combustion Residuals Waste Management.

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 352 continue to exist.

Comments regarding suggested changes to the rules in Chapter 352 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 by TCEQ.

#### Submittal of Comments

TCEQ invites public comment on this preliminary review of the rules in Chapter 352. 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: [www.tceq.commentinput.com/](http://www.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 2023-119-352-WS. Comments must be received by November 6, 2023. For further information, please contact Jarita Sepulvado, Waste Permits Division, at (512) 239-4413.

TRD-202303574

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: September 27, 2023



### Comptroller of Public Accounts

#### Title 34, Part 1

The Comptroller of Public Accounts proposes to review Texas Administrative Code, Title 34, Part 1, Chapter 1, concerning Central Administration; Chapter 4, concerning Treasury Administration; Chapter 5, concerning Funds Management (Fiscal Affairs); and Chapter 6, concerning Investment Management.

The review will include, at the minimum, whether the reasons for re-adopting continue to exist.

The comptroller will accept comments regarding the review. The comment period will last for 30 days following the publication of this notice in the *Texas Register*. Comments pertaining to this review may be directed accordingly.

#### Chapter 1, Central Administration

##### Subchapter A, Practice and Procedures, and

##### Subchapter B, Miscellaneous Non-Tax Reporting and Remittance Requirements

James Arbogast, General Counsel for Hearings and Tax Litigation

The Texas Commission on Environmental Quality (TCEQ) has completed its Rules Review of 30 Texas Administrative Code (TAC) Chapter 352, Coal Combustion Residuals Waste Management, 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 October 6, 2023, issue of the *Texas Register* (48 TexReg 5829).

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 352 are required to implement the requirements of 40 Code of Federal Regulations Part 257, Subpart D for management of coal combustion residuals (CCR) in landfills and surface impoundments and implement procedural requirements for the state's CCR registration and compliance monitoring programs. TCEQ administers an EPA-approved CCR program in Texas by application of the rules in Chapter 352.

#### Public Comment

The public comment period closed on November 6, 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 352 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. 2023-0933-MIS  
Non-Rule Project No. 2023-119-352-WS

On April 12, 2024, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 TAC Chapter 352, Coal Combustion Residuals Waste Management, 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 October 6, 2023, issue of the *Texas Register* (48 TexReg 5829).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 352 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