

The Texas Natural Resource Conservation Commission (commission) proposes new Chapter 15, Fleet Vehicle Management, §15.1, Fleet Vehicle Management.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULE

The purpose of the proposed rule is to implement the requirements of House Bill (HB) 3125, signed into law during the 76th Legislature, 1999. The bill amended Texas Government Code, Title 10, Chapter 2171, by adding §2171.1045, Restrictions on Assignment of Vehicles. This section requires state agencies to adopt rules consistent with the fleet management plan (Management Plan) developed in accordance with Texas Government Code, §2171.104. The rule has been drafted to be consistent with the intent and language of the bill.

The rule is consistent with the Management Plan, and requires the executive director to adopt a policy consistent with the Management Plan. The rule describes under what circumstances a commission vehicle may be assigned to an individual. If the exceptions outlined in the rule are not met, then the rule stipulates that each vehicle the commission owns must be assigned to the commission motor pool.

SECTION BY SECTION DISCUSSION

Chapter 15, Fleet Vehicle Management, is added to 30 TAC.

New proposed §15.1(a) establishes that each vehicle will be assigned to the commission's motor pool and will be available to be checked out.

New proposed §15.1(b) establishes the exceptions to §15.1(a). Specifically, a vehicle may be assigned to a field employee or the executive director (ED) may assign a vehicle to an employee on a regular basis only if the ED finds and documents in writing that the regular assignment is critical to the needs and mission of the commission.

New proposed §15.1(c) establishes that the ED will adopt an operating policy that is consistent with the Management Plan developed in accordance with Texas Government Code, §2171.104.

FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT

John Davis, Technical Specialist with Strategic Planning and Appropriations, has determined that for the first five-year period the proposed rule is in effect, there will be no significant fiscal implications for units of state and local government as a result of administration or enforcement of the proposed rule.

The proposed rule is intended to implement certain provisions of HB 3125, 76th Legislature, 1999, which require state agencies to adopt rules consistent with the fleet management plan adopted by the Office of Vehicle Fleet Management.

The proposal would require all commission vehicles, except for those assigned to field personnel, to be assigned to the commission's motor pool and be available for use. Commission divisions and offices could request to have vehicles assigned to individuals on a regular or everyday basis only if a written request is submitted and approved by the ED. This proposal is procedural in nature, and the

commission anticipates no significant fiscal implications to the commission as a result of implementing the proposed rule.

PUBLIC BENEFIT AND COSTS

Mr. Davis also has determined that for each year of the first five years the proposed rule is in effect, the public benefit anticipated from enforcement of and compliance with the proposed rule will be potentially more efficient utilization and management of commission vehicles.

The proposal would require all commission vehicles, except for those assigned to field personnel, to be assigned to the commission's motor pool and be available for use. Commission divisions and offices could request to have vehicles assigned to individuals on a regular or everyday basis only if a written request is submitted and approved by the ED. The proposed rule only affects state agencies; therefore, the commission anticipates no fiscal implications for individuals and businesses.

SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT

No adverse economic effects are anticipated to any small or micro-businesses as a result of implementing the proposed rule. The proposal would require all commission vehicles, except for those assigned to field personnel, to be assigned to the commission's motor pool and be available for use. Commission divisions and offices could request to have vehicles assigned to individuals on a regular or everyday basis only if a written request is submitted and approved by the ED. The proposed rule only affects state agencies; therefore, the commission anticipates no fiscal implications for small or micro-

businesses.

DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225 and determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in that statute.

"Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The proposal does not meet the definition of "major environmental rule" because the rulemaking is not specifically intended to protect the environment or reduce risks to human health from environmental exposure. This rulemaking proposes to adopt state statutory requirements relating to vehicle fleet management as required by Texas Government Code, §2171.1045. The commission invites public comment on the draft regulatory impact analysis determination.

TAKINGS IMPACT ASSESSMENT

The commission evaluated the proposed rule and performed a preliminary assessment of whether Texas Government Code, Chapter 2007 is applicable. The commission's preliminary assessment indicates that Texas Government Code, Chapter 2007 does not apply to the proposed rule because this is an action

that is reasonably taken to fulfill an obligation mandated by state law, which is exempt under Texas Government Code, §2007.003(b)(4). Nevertheless, the commission further evaluated the proposed rule and performed a preliminary assessment of whether the proposed rule constitutes a takings under Texas Government Code, Chapter 2007. The following is a summary of that evaluation and preliminary assessment. The specific purpose of the proposed rule is to create new Chapter 15, Fleet Vehicle Management, to comply with state statutory requirements relating to vehicle fleet management as required by Texas Government Code, §2171.1045. The proposed rule would substantially advance this stated purpose by requiring commission vehicles, except for vehicles assigned to field employees, to be assigned to the commission motor pool. The proposed rule would also require that prior to assigning a vehicle to an individual administrative or executive employee on a regular basis, the ED shall make a written documented finding that such assignment is critical to the needs and mission of the commission. Promulgation and enforcement of the proposed rule would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject proposed regulations do not affect a landowner's rights in private real property because this rulemaking does not burden (constitutionally); nor restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulations. In other words, no private property will be affected in any way by this rule. The rule will place restrictions only on the assignment of state property, specifically state vehicles. There are no burdens imposed on private real property.

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission has reviewed the proposed rulemaking and found that the rule is neither identified in the Coastal Coordination Act Implementation Rules, 31 TAC §505.11, relating to Actions and Rules

Subject to the Texas Coastal Management Program (CMP), nor will it affect any action/authorization identified in the Coastal Coordination Act Implementation Rules, 31 TAC §505.11. Therefore, the proposed rule is not subject to the CMP.

SUBMITTAL OF COMMENTS

Comments may be submitted to Angela Slupe, Office of Environmental Policy, Analysis, and Assessment, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 2001-004-015-AD. Comments must be submitted by 5:00 pm on May 21, 2001. For further information, please contact Kathy Ramirez, Office of Environmental Policy, Analysis, and Assessment, (512) 239-6757.

STATUTORY AUTHORITY

The new section is proposed under Texas Water Code (TWC), §5.103, which provides the commission with the authority to adopt rules necessary to carry out its powers and duties under this code and other laws of this state. The proposed new section is also authorized by Texas Government Code, §2171.1045, which requires a state agency to adopt the vehicle fleet management rules.

The proposed new section implements TWC, §5.103, relating to Rules. The proposed new section also implements Texas Government Code, §2171.1045, relating to Restrictions on Assignment of Vehicles.

CHAPTER 15

FLEET VEHICLE MANAGEMENT

§15.1

§15.1. Fleet Vehicle Management.

(a) Requirements - each commission vehicle shall be assigned to the commission motor pool and shall be available for checkout, except as provided in subsection (b) of this section.

(b) Exceptions - vehicles that meet the criteria in paragraphs (1) and (2) of this subsection are excepted from subsection (a) of this section:

(1) a vehicle assigned to a field employee; or

(2) a vehicle assigned to an individual administrative or executive employee on a regular or everyday basis if the executive director makes a written documented finding that the assignment is critical to the needs and mission of the commission.

(c) The executive director shall adopt an operating policy that is consistent with the Management Plan developed in accordance with Texas Government Code, §2171.104.