

The Texas Commission on Environmental Quality (commission) adopts the repeal of Subchapter M, Waste Treatment Inspection Fee Program, §§305.501 - 305.507 *without changes* as published in the April 26, 2002 issue of the *Texas Register* (27 TexReg 3512), and will not be republished.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED RULES

House Bill (HB) 2912, §§3.04 - 3.06, 77th Legislature, 2001 mandates the commission to consolidate the water quality assessment fee (WQAF) and the waste treatment inspection fee (WTF). The rulemaking will repeal the existing WTF program provisions. These provisions with changes will be moved to and adopted concurrently in this issue of the *Texas Register* in new 30 TAC Chapter 21, Water Quality Fees.

SECTION BY SECTION DISCUSSION

Sections 305.501 - 305.507 are repealed because the WTF program has been revised as a result of HB 2912, §§3.04 - 3.06. The fees for this program are adopted in new Chapter 21.

FINAL REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed the 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 the statute. A “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 rulemaking does not meet the definition of “major environmental rule” because it is not specifically intended to protect the environment or reduce risks to human health from environmental exposure. Instead, the rulemaking is intended to repeal rules which must be revised as a result of HB 2912, §§3.04 - 3.06 because the WTF is now part of the water quality fee which will be in new Chapter 21.

Written comments on the draft regulatory impact analysis determination were solicited. No comments were received on the draft regulatory impact analysis determination.

TAKINGS IMPACT ASSESSMENT

The commission prepared a takings impact assessment for this rulemaking pursuant to Texas Government Code, §2007.043. The specific purpose of this rulemaking is to repeal rules which were contained in Chapter 305 that became obsolete as a result of HB 2912, §§3.04 - 3.06. The repeal of these rules will not burden private real property because these rules will no longer be used. The rules did not affect private real property, nor does the repeal of these rules affect private real property.

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM (CMP)

The commission reviewed the repeals and found that they are identified in the Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(2), relating to Actions and Rules Subject to the Coastal Management Program, or would affect an action/authorization identified in §505.11(a)(6), and would, therefore, require that goals and policies of the CMP be considered during the rulemaking process.

The commission reviewed this rulemaking for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Council and determined that the repeals are consistent with CMP goals and policies; would not have a direct or significant adverse effect on any coastal natural resource areas; would not have a substantive effect on commission actions subject to the CMP; and promulgation and enforcement of the repeals would not violate (exceed) standards identified in the applicable CMP goals and policies. This rulemaking repeals fee rules which are procedural mechanisms for paying for commission programs.

Written comments on the consistency of this rulemaking with the CMP were solicited. No comments were received on the consistency of this rulemaking with the CMP.

PUBLIC COMMENT

A public hearing was held on May 21, 2002, in Austin. The comment period closed on May 28, 2002. No comments on the repeals in this chapter were received. However, the substantive comments received on this rulemaking have been addressed in the RESPONSE TO COMMENTS section in the new Chapter 21, which is published concurrently in this issue of the *Texas Register*.

SUBCHAPTER M: WASTE TREATMENT INSPECTION FEE PROGRAM

§§305.501 - 305.507

STATUTORY AUTHORITY

The repeals are adopted under Texas Water Code, §5.012, which provides that the commission is the agency responsible for implementing the constitution and laws of the state relating to conservation of natural resources and protection of the environment; §5.013, which establishes the commission's authority over various statutory programs; §5.103 and §5.105, which establish the commission's general authority to adopt rules; and §26.0291, which establishes an annual water quality fee on wastewater permit holders and water right holders.

§305.501. Purpose.

§305.502. Definitions and Abbreviations.

§305.503. Fee Assessment.

§305.504. Fee Payment.

§305.505. Fund.

§305.506. Cancellation, Revocation, and Transfer.

§305.507. Failure to Make Payment.