

The Texas Commission on Environmental Quality (TCEQ, agency, commission) adopts the amendment to §14.9 *without change* to the proposed text as published in the April 11, 2014, issue of the *Texas Register* (39 TexReg 2751), and will not be republished.

Background and Summary of the Factual Basis for the Proposed Rule

House Bill (HB) 1487, 83rd Legislature, effective September 1, 2013, added §403.0245 to the Texas Government Code. Texas Government Code, §403.0245 requires the commission to post notices of state-funded grant opportunities of \$25,000 or more on the public website. It also requires the commission to provide a link to the Texas Comptroller of Public Accounts (Comptroller) website through a central Internet portal.

Section Discussion

§14.9, Notices

Adopted subsection (f) reflects the new requirement to make grant awards in excess of \$25,000 available to the public on the agency's generally accessible Internet website, and to state the purpose for which the grant was awarded.

Final Regulatory Impact Analysis

The commission reviewed the adopted rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the adopted

amendment is not subject to Texas Government Code, §2001.0225 because it does not meet the definition of a "major environmental rule". The intent of the adopted rulemaking is to make certain information easily available to the public. The changes are not expressly to protect the environment and reduce risks to human health and environment.

The commission invited public comment regarding the draft regulatory impact analysis determination during the public comment period. No comments were received on the regulatory impact analysis determination.

Takings Impact Assessment

The commission evaluated the adopted rulemaking and assessed whether it constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of this amendment is to make certain information easily available to the public. Promulgation and enforcement of this adopted amendment would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject adopted regulation does 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. Therefore, there are no burdens imposed on private real property.

Consistency with the Coastal Management Program

The commission reviewed the adopted rulemaking and found it is a rulemaking identified in the Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(4), relating to rules subject to the Coastal Management Program, and will, therefore, require that goals and policies of the Texas Coastal Management Program (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 Advisory Committee and determined that the amendment is consistent with CMP goals and policies because the rulemaking is a contracting rule, which is a procedural mechanism for paying for commission programs; will not have direct or significant adverse effect on any coastal natural resource areas; will not have a substantive effect on commission actions subject to the CMP; and promulgation and enforcement of the amendment will not violate (exceed) any standards identified in the applicable CMP goals and policies.

The commission determined that the adopted amendment will not affect any coastal natural resource areas because the rule only affects governmental contracting and is therefore, consistent with CMP goals and policies.

The commission invited public comment regarding the consistency with the CPM during the public comment period. No comments were received on the CMP.

Public Comment

The commission held a public hearing on May 6, 2014. The comment period closed on May 12, 2014. The commission did not receive any comments regarding this rulemaking.

GRANTS

§14.9

Statutory Authority

The amendment is adopted under Texas Water Code (TWC), §5.103, which provides the commission with the authority to adopt any rules necessary to carry out its powers and duties under this code and other laws of this state.

The adopted amendment implements House Bill 1487, 83rd Legislature, 2013.

§14.9. Notices.

(a) The executive director shall publish on the state electronic business daily, commonly known as the Texas Marketplace, information regarding any solicitation related to a grant or series of grants, any of which is reasonably expected to exceed \$25,000, to be awarded under this chapter.

(b) The notice will indicate either that the executive director is seeking proposals or applications from potential grant recipients, or that one or more direct awards is anticipated, in accordance with §14.8 of this title (relating to Direct Award).

(c) If one or more direct awards is anticipated, the notice will identify the recipients selected to receive a direct award and will describe the objective and amount of each proposed award.

(d) Following recipient selection and final grant award, except in the case of a previously noted direct award, the executive director shall file a second notice in the state's electronic business daily identifying the successful recipients and indicating the amount of each awarded grant.

(e) In addition, the executive director may publish or broadcast information concerning a grant or grants in any publication, web site, or other forum.

(f) The executive director shall make available to the public on the agency's generally accessible Internet website the purpose for which any grant with a value greater than \$25,000 was awarded.