

The Texas Commission on Environmental Quality (TCEQ, agency, commission) proposes to amend §14.9.

Background and Summary of the Factual Basis for the Proposed Rule

The commission is proposing this rulemaking to amend an existing rule pertaining to a state funded grant opportunity notification.

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.

In a corresponding rulemaking published in this issue of the *Texas Register*, the commission also proposes to amend 30 TAC Chapter 11, Contracts.

Section Discussion

§14.9, Notices

The commission proposes to amend §14.9 by adding subsection (f) to the rule to reflect 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.

Fiscal Note: Costs to State and Local Government

Nina Chamness, Analyst in the Chief Financial Officer Division, has determined that, for the first five-year period the proposed rule is in effect, no significant fiscal implications are anticipated for the agency or other units of state or local government as a result of administration or enforcement of the proposed rule.

Per the requirements of HB 1487, 83rd Legislature, the proposed rule amends Chapter 14 to require the notification of grants of \$25,000 or more on the agency's generally accessible public website and provide a link to the Comptroller's website through a central internet portal, currently known as the Texas Marketplace.

The agency has used currently available resources to establish the required webpage and internet link, and the proposed rule has not had a significant fiscal impact on the agency.

The proposed rule is not expected to have a significant fiscal impact for local governments. However, it may result in easier access to information for grants of \$25,000 or more. The agency does not anticipate that there will be a significant increase in grant applications since information on grant opportunities (though not as

consolidated as per the proposed rule) is currently communicated via other means and funding is limited to predetermined amounts.

Public Benefits and Costs

Ms. Chamness also determined that for each year of the first five years the proposed rule is in effect, the public benefit anticipated from the changes seen in the proposed rule will be compliance with state law and greater transparency and communication regarding grant information.

The proposed rule would not have a significant direct fiscal impact on individuals or businesses, but eligible entities may apply for additional grant funds because information of state-funded grants of \$25,000 or more would be easier to find. The proposed rule requires the posting of state-funded grants of \$25,000 or more on the agency's generally accessible public website and the provision of a link to the Comptroller's website through a central internet portal.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses under the proposed rule. The proposed rule provides additional communication regarding state-funded grants of \$25,000 or more and may lead more small businesses to apply for state-funded grants.

Small Business Regulatory Flexibility Analysis

The commission has reviewed this proposed rulemaking and determined that a small business regulatory flexibility analysis is not required because the proposed rule does not adversely affect a small or micro-business in a material way for the first five years that the proposed rule is in effect.

Local Employment Impact Statement

The commission has reviewed this proposed rulemaking and determined that a local employment impact statement is not required because the proposed rule does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect.

Draft Regulatory Impact Analysis Determination

The commission reviewed the proposed amendment in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the proposed 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 proposed 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.

Written comments on the draft regulatory impact analysis determination may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Takings Impact Assessment

The commission evaluated the proposed amendment 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 proposed amendment would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject proposed 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 proposed rulemaking and found the proposal 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 fee 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 amendment will not affect any coastal natural resource areas because the rule only affects counties outside the CMP area and is, therefore, consistent with CMP goals and policies.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Announcement of Hearing

The commission will hold a public hearing on this proposal in Austin on May 6, 2014, at 10 a.m., in Building E, Room 201S, at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802. Requests should be made as far in advance as possible.

Submittal of Comments

Written comments may be submitted to Bruce McAnally, 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: <http://www5.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2013-051-011-AS. The comment period closes May 12, 2014. Copies of the proposed rulemaking can be obtained from the commission's Website at

http://www.tceq.texas.gov/nav/rules/propose_adopt.html. For further information,
please contact Greg Yturralde, Revenue Operation Manager, at (512) 239-1951.

GRANTS

§14.9

Statutory Authority

The amendment is proposed 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 proposed 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, website [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.