

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** October 28, 2016

Thru: Bridget C. Bohac, Chief Clerk
Richard A. Hyde, P.E., Executive Director

From: John Racanelli, Deputy Director
Office of Administrative Services

Docket No.: 2015-0935-RUL

Subject: Commission Approval for Rulemaking Adoption
Chapter 11, Contracts
SB 20: Enhanced Contract Monitoring
Rule Project No. 2015-030-011-AD

Background and reason(s) for the rulemaking:

Senate Bill (SB) 20 (84th Texas Legislature, 2015) added Texas Government Code, §2261.253(c), which requires state agencies to establish by rule procedures to identify each contract that requires enhanced contract or performance monitoring, and submit information to the agencies' governing bodies. Accordingly, the Texas Commission on Environmental Quality (TCEQ, agency, or commission) is adopting this rulemaking to add a new rule section to an existing subchapter regarding contracts.

Scope of the rulemaking:

Pursuant to Texas Government Code, §2261.253, the executive director or his designee shall establish a written procedure to identify each contract that requires enhanced contract or performance monitoring and submit information on contracts subject to enhanced contract or performance monitoring to the commission.

A.) Summary of what the rulemaking will do:

This rulemaking establishes by rule a procedure to identify each contract that requires enhanced contract or performance monitoring and submit information on the contract to the commission.

B.) Scope required by federal regulations or state statutes:

This rulemaking establishes by rule a procedure to identify each contract that requires enhanced contract or performance monitoring, and submit information to the commission.

C.) Additional staff recommendations that are not required by federal rule or state statute:

None.

Statutory authority:

Texas Water Code, §5.103

Texas Government Code, §2261.253(c), as added by SB 20.

Re: Docket No. 2015-0935-RUL

Effect on the:

A.) Regulated community:

None.

B.) Public:

None.

C.) Agency programs:

TCEQ has a Contract Management Handbook that outlines standard contract monitoring and identifies when enhanced monitoring may be required. Agency program areas may supplement with additional Standard Operating Procedures.

Stakeholder meetings:

There were no stakeholder meetings held related to this rulemaking. However, a rule public hearing was scheduled during the comment period.

Public comment:

The commission offered a public hearing on September 13, 2016; however, no members of the public were present to offer comments. Therefore, the hearing was not officially opened. Additionally, there were no written comments submitted for this rulemaking project.

Significant changes from proposal:

No significant changes were made to the proposed text.

Potential controversial concerns and legislative interest:

None.

Does this rulemaking affect any current policies or require development of new policies?

TCEQ has a Contract Management Handbook that outlines standard contract monitoring and identifies when enhanced monitoring may be required.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

Texas Government Code, §2261.253(c) requires all state agencies to create a rule regarding enhanced contract monitoring.

Key points in the adoption rulemaking schedule:

Texas Register proposal publication date: August 19, 2016

Anticipated Texas Register adoption publication date: December 2, 2016

Anticipated effective date: December 8, 2016

Six-month Texas Register filing deadline: February 19, 2017

Commissioners
Page 3
October 28, 2016

Re: Docket No. 2015-0935-RUL

Agency contacts:

LaTresa Stroud, Rule Project Manager, Financial Administration Division, (512) 239-5555
Beth West, Senior Attorney, General Law Division, (512) 239-0748
Derek Baxter, Texas Register Rule/Agenda Coordinator, (512) 239-2613

Attachments

SB 20

cc: Chief Clerk, 2 copies
Executive Director's Office
Marshall Coover
Erin Chancellor
Stephen Tatum
Jim Rizk
Office of General Counsel
LaTresa Stroud
Beth West
Derek Baxter