

The Texas Natural Resource Conservation Commission (commission) proposes the repeal of §§351.111-351.113, concerning the designation of the regional area included for the Upper Brushy Creek Watershed.

EXPLANATION OF PROPOSED RULE

The proposed repeal of §§351.111-351.113 removes the designation of the Upper Brushy Creek Watershed as a Regional Area and the designation of the Brushy Creek Water Control and Improvement District No. 1 of Williamson and Milam Counties (District) as the regional entity responsible for providing wastewater services. This would allow for the implementation of a recent agreement among the City of Austin, the City of Round Rock, the Lower Colorado River Authority (LCRA), and the Brazos River Authority (BRA) providing for one regional wastewater treatment facility to be built by LCRA and operated by BRA.

The Watershed area includes the area in southwest Williamson County, which includes the cities of Cedar Park, Leander, Round Rock, portions of the extraterritorial jurisdiction of the City of Austin, and the unincorporated areas surrounding those cities. The District is designated as the entity responsible for the planning, construction, operation, and maintenance of an integrated wastewater treatment system for the area designated as the Uppers Bushy Creek Watershed.

The designation was made in 1985 pursuant to Texas Water Code §§26.081-26.087; however, no election was held to confirm the designation. Since then, participants have withdrawn from the plan. The remaining parties along with the District have jointly petitioned the commission to repeal the

designation. The repeal will allow a regional facility to be built and operated by the LCRA and BRA respectively, while also allowing for interested entities to continue discussing regional wastewater system plans with other interested parties.

FISCAL NOTE

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period there will be no significant fiscal implications for state or local government as a result of the proposed repeal of these sections.

PUBLIC BENEFIT

Mr. Minick has also determined that for the first five years the sections proposed to be repealed are not in effect, the public benefit anticipated will be the increased potential for local and regional planning and construction of a regional wastewater treatment system for the Upper Brushy Creek Watershed. There are no significant fiscal implications anticipated for small businesses. There are no economic costs anticipated for any person subject to the sections as proposed.

TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated, Section 2007.043. The following is a summary of the assessment. The specific purpose of the proposed repeal is to remove the designation the Upper Brushy Creek Watershed as a regional area. The proposed repeal of these rules will not affect private real property which is the subject of the rules.

PUBLIC HEARING

A public hearing on the proposal will be held December 6, 1996, at 10:00 a.m. in Room 5108 of commission Building F, located at 12100 Park 35 Circle, Austin. The hearing is structured to receive oral or written comments by interested persons. Individuals may present oral statements when called upon in the order of registration. Open discussion within the audience will not occur during the hearing; however, a commission staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

SUBMITTAL OF COMMENTS

Written comments on the proposal should refer to Rule Log No. 96169-351-WT and may be submitted to Lutrecia Oshoko, Texas Natural Resource Conservation Commission, Office of Policy and Regulatory Development, MC 205, P. O. Box 13087, Austin, Texas 78711-3087, (512) 239-4640. Comments may be faxed to (512) 239-5687, but must be followed up with the submission and receipt of the written comments within three working days of when they were faxed. Written comments must be received by 5:00 p.m. 30 days from the date of publication of this proposal in the *Texas Register*. Such comments will not receive individual responses but, rather, will be addressed in the preamble of the adopted rules and published in the *Texas Register*. For further information concerning this proposal, please contact Santos Olivarez, Water Policy and Regulations Division, at (512) 239-4718.

STATUTORY AUTHORITY

These sections are proposed under the Texas Water Code, §5.102 which provides the commission with the general powers to carry out duties under the Texas Water Code, and §5.103, which provides the

commission with the authority to adopt any rules necessary to carry out the powers and the duties under the provisions of the Texas Water Code and other laws of this state.

There are no other codes, rules or statutes that will be affected by this proposal.

UPPER BRUSHY CREEK WATERSHED

These sections are proposed for repeal under the Texas Water Code, §5.102 which provides the commission with the general powers to carry out duties under the Texas Water Code and §5.103, which provides the commission with the authority to adopt any rules necessary to carry out the powers and the duties under the provisions of the Texas Water Code and other laws of this state.

§351.111. Definitions.

§351.112. Designation of Regional Area.

§351.113. Designation of Regional Entity.

This agency hereby certifies that the proposal has been reviewed by legal council and found to be within the agency's authority to adopt.

Issued in Austin, Texas on