

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Commissioners **Date:** July 9, 2010

Thru: LaDonna Castañuela, Chief Clerk
Mark R. Vickery, P.G., Executive Director

From: L'Oreal W. Stepney, Deputy Director
Office of Water

Subject: Consideration of a Petition for Proposed Rulemaking

Docket No.: 2010-0879-RUL

Rule Project No. 2010-029-PET-NR

Who Submitted the Petition:

On May 28, 2010, the Texas Commission on Environmental Quality (TCEQ) received a petition for rulemaking from Paloma Lake Municipal Utility District (MUD) Number 1, Paloma Lake MUD Number 2, Parkside at Mayfield Ranch MUD, and by Armbrust & Brown, L.L.P., on behalf of Greenhawe Water Control and Improvement District Number 2, Lakeside MUD Number 3, Travis County MUD Number 7, Travis County MUD Number 9, Williamson County Water, Sewer, Irrigation, and Drainage District Number 3, Moore's Crossing MUD, West Williamson County MUD Number 1, and Travis County MUD Number 4 (the Petitioner).

What the Petitioner Requests:

The Petitioner proposed an amendment to 30 TAC §293.44 to facilitate regionalization and cooperative planning among water districts and other local government entities by providing clear authorization in the TCEQ's rules to provide a mechanism for allowing the cost incurred by a district to construct or acquire capacity in regional water, wastewater and drainage facilities to be bonded or reimbursed so long as that cost did not exceed the cost the district would have incurred to construct the facilities required to provide the same service on its own. The Petitioner stated that the proposed amendment ". . . would further be consistent with the State's policy, as set forth in Section 49.230, Texas Water Code, to 'encourage the development and use of integrated area-wide wastewater collection, treatment and disposal systems to serve the wastewater disposal needs of the citizens of the state whenever it is economically feasible and competitive to do so. . .'" The Petitioner provided suggested language.

Recommended Action and Justification:

The executive director recommends the approval of the petition; however, the executive director may recommend alternate language to meet rule formatting requirements. This amendment will facilitate cooperation and coordination between water districts for regional water and wastewater projects by allowing a district to fund the *pro rata* share of oversized facilities to serve areas outside the district so long as it is the most cost effective means of providing service. The amendment will also clarify the funding mechanism for regional water and wastewater facilities because the district will be able to obtain bond approval for oversizing facilities serving areas outside the district.

Applicable Law:

- Texas Government Code, §2001.021, which establishes the procedures by which an interested person may petition a state agency for the adoption of a rule.
- 30 TAC §20.15, which provides such procedures specific to the TCEQ
- Texas Water Code (TWC), §5.103, which sets forth the TCEQ's general rulemaking authority.
- TWC, §5.105, which allows the TCEQ to establish and approve general policy by rule.

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- TWC, Chapter 49, which is applicable to most districts.

Affected Public:

Districts and landowners within districts who wish to participate in regional planning and development will be affected because districts will be making the facility contracts and the landowners will be paying the taxes to fund such projects.

Affected Agency Programs:

Office of Water, Water Supply Division's Districts Bond Team will review bond applications from the districts with projects that involve oversizing facilities to ensure that those districts do not spend bond money on unauthorized projects. Office of Compliance and Enforcement, Field Operations Division will be affected because it will be inspecting the district's project.

Agency Contacts:

Greg Charles, Rule Project Manager, (512) 239-4638, Water Supply Division

Christiaan Siano, Staff Attorney, (512) 239-6743

Charlotte Horn, Texas Register Coordinator, (512) 239-0779

Attachment: Petition

cc: 2 copies to the Chief Clerk for distribution

Executive Director's Office

Susana M. Hildebrand, P.E.

Daniel Womack

Kevin Patteson

Curtis Seaton

Office of General Counsel

Greg Charles

Charlotte Horn