

The commission proposes new §7.104, concerning a Memorandum of Understanding (MOU) between the Texas Water Development Board (board) and the commission.

EXPLANATION OF THE PROPOSED RULE

The MOU establishes a formal agreement on the respective duties and responsibilities of the two agencies in the establishment and implementation of a Drinking Water State Revolving Loan Fund under the Safe Drinking Water Act Amendments of 1996 (Amendments of 1996), and to improve the efficiency and effectiveness of the board and commission operation in administering the provisions of the Amendments of 1996. The board is proposing the MOU by rule as required by Water Code, §5.104. The commission is proposing to adopt the MOU by reference. The proposed MOU may be found in the xxxx issue of the *Texas Register* (22 TexReg xxxx).

FISCAL NOTE

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the section as proposed is in effect, there will be no significant fiscal implications anticipated for state and local governments as a result of administration or enforcement of the section.

PUBLIC BENEFIT

Mr. Minick has also determined that for each year of the first five years the section as proposed is in effect, the public benefit anticipated as a result of implementing the section will be improvement in the coordination between the board and commission to more efficiently and effectively implement the Drinking Water State Revolving Loan Fund. There are no economic costs to persons, including small businesses, who are required to comply with the section as proposed.

TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment pursuant to Texas Government Code, §2007.043; the following is a summary of that assessment. The specific purpose of the rule is to adopt an MOU between the commission and the board concerning the implementation of the Safe Drinking Water Act Amendments of 1996, including the implementation of a Drinking Water State Revolving Loan Fund. The rule will substantially advance this specific purpose by clarifying the respective duties of the two agencies in that regard. Promulgation and enforcement of the rule will not burden private real property because it does not restrict or limit an owner's right to the property that would otherwise exist in the absence of the rulemaking.

COASTAL MANAGEMENT PROGRAM (CMP)

The executive director has reviewed the proposed rulemaking and found that the rule is neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11, relating to Actions and Rules Subject to the Coastal Management Program, nor will affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11. Therefore, the proposed rule is not subject to the CMP.

SUBMITTAL OF COMMENTS

Written comments 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 or faxed to (512) 239-5687. All comments should reference Rule Log Number 97123-007-WT. Comments must be received by 5:00 p.m., 30 days after the date of publication of this

proposal in the *Texas Register*. For further information concerning this proposal, please contact Steve Walden, Public Drinking Water, Water Utilities Division, (512) 239-6017.

STATUTORY AUTHORITY

The new section is proposed under Texas Water Code, §5.104, which authorizes the commission to enter into an MOU with the board to clarify and provide for their respective duties, responsibilities, or functions on any matter within their jurisdictions.

In addition, this new section is proposed under Texas Health and Safety Code, Chapter 341, Subchapter C, which authorizes the commission to adopt rules to implement the federal Safe Drinking Water Act.

The proposed new section implements Texas Water Code, §15.602(1).

§7.104. Memorandum of Understanding between the Texas Water Development Board and the Texas Natural Resource Conservation Commission.

The commission adopts by reference the rules of the Texas Water Development Board in 31 TAC §371.5 (relating to Memorandum of Understanding between Texas Water Development Board and Texas Natural Resource Conservation Commission).

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

Issued in Austin, Texas, on