

# Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

**To:** Commissioners **Date:** January 17, 2003

**Thru:** LaDonna Castañuela  
Chief Clerk

**From:** Randolph Wood, Deputy Director  
Office of Environmental Policy, Analysis, and Assessment

**Subject:** Consideration of a Petition for Proposed Rulemaking

**Docket No.:** 2003-0037-RUL

**Rule Log No.:** 2003-018-PET-WS

## **Who Submitted the Petition:**

On December 16, 2002, the executive director received a petition from the City of Houston, submitted by Mr. Thomas M. Buchanan, Director, Solid Waste Management Department.

## **What the Petitioner Requests:**

The petitioner requests adoption of an amendment to 30 TAC §330.4, Permit Required. Specifically, the petitioner requests an amendment to §330.4(q), which provides for the option of registration rather than permitting for certain municipal solid waste transfer stations. Currently, §330.4(q) states, in part, that a permit is not required for any new municipal solid waste Type V transfer station that includes a material recovery operation that meets all of the requirements established by this subsection, and allows owners and operators of these transfer stations to register their operations in lieu of permitting them.

The petitioner requests that the rule be changed to state that a permit is not required for any municipal solid waste Type V transfer station that is owned by a local government that operates a source-separated recycling program or, as provided by the existing rule, includes a material recovery operation that meets all of the requirements established by this subsection. The revisions to the rule language would delete the word “new” in the phrase “a permit is not required for any new municipal solid waste Type V transfer station that,” and also insert the following phrase describing an additional exemption: “either is owned by a local government that operates a source-separated recycling program or . . . .”

## **Recommended Action and Justification:**

The executive director recommends that the petition for rulemaking be approved. The executive director further recommends that the commission instruct the executive director to examine the issues in the petition, including whether to establish appropriate criteria for the exemption and whether to broaden the permit exemption beyond local governments, and to initiate rulemaking. The submitted petition asserts that failure to adopt the petitioned rule revisions could serve to inhibit materials

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recycling. If the petition is granted, the rulemaking process could provide certain operations with the opportunity or incentive to increase their recycling rates, thereby helping to achieve the goals of the State of Texas' public policy concerning municipal solid waste.

**Key Points in Petition Schedule:**

Deadline for consideration by Commission: February 13, 2003  
Last available agenda for consideration: February 5, 2003

**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 and 30 TAC §20.15, which provides such procedures specific to the commission.

If the petition is approved by the commission, any proposed amendments would be promulgated under Texas Health and Safety Code, §§361.011, 361.017, and 361.024, which provide the commission the authority to adopt rules necessary to carry out its power and duties under the Texas Solid Waste Disposal Act; and §361.022, which establishes state public policy concerning municipal solid waste to include recycling as a preferred method and requires the commission to consider that policy when adopting rules.

**Affected Public:**

Owners and operators of municipal solid waste Type V transfer stations.

**Affected Agency Programs:**

Primarily, the Registration and Reporting Section and the Municipal Solid Waste Permits Section of the Office of Permitting, Remediation and Registration. Also, the Environmental Law Division, Office of Legal Services and the Field Operations Division, Office of Compliance and Enforcement, and the Small Business and Environmental Assistance Division.

**Agency Contacts:**

Ray Austin, Rule Project Manager, 239-6814  
Wayne Lee, Program Lead, 239-6815  
Angela Stepherson, Senior Attorney, 239-0585  
Patricia Durón, Texas Register Coordinator, 239-6087

Attachment: Petition

cc: 5 copies to the Chief Clerk for distribution