

# Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

**To:** Commissioners **Date:** June 20, 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.:** 2003-0645-RUL

**Rule Log No.:** 2003-036-PET-WS

**Who Submitted the Petition:**

The petition was filed by Ms. Janis Fisher of Grand Prairie, Texas. The petition was received on May 12, 2003.

**What the Petitioner Requests:**

Although the petition did not include any alternate language for the rule change, the petitioner requests that the commission's rules be changed to prevent commercial pet cemeteries from being used for any other purpose in the future. Pet cemeteries are regulated under 30 Texas Administrative Code (TAC) Chapter 330, Municipal Solid Waste, which requires that these properties be deed recorded as to their use so that any future owners will be aware that potentially significant numbers of animals have been buried there.

**Recommended Action and Justification:**

The executive director recommends that the petition be denied. Staff has determined that the commission does not have legal authority to limit the future use of properties that are used as commercial pet cemeteries. The rules for petitions in 30 TAC §20.15 require that petitions contain the proposed alternate rule language and the legal authority for the change, neither of which were in the petition received. The executive director has sent a letter to the petitioner explaining this recommendation and offering advice on other avenues to address her concerns.

**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. 30 TAC Chapter 330 is authorized by Texas Health and Safety Code, Chapter 361.

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**Affected Public:**

Both the owners and users of commercial pet cemeteries would be affected by the requested rule change. The owners would be precluded from selling the properties for other uses in the future. Their customers would have more certainty that the grave sites of their pets would remain undisturbed.

**Affected Agency Programs:**

Waste Permits Division  
Fields Operations Division  
Enforcement Division

**Agency Contacts:**

Joseph Thomas, Rule Project Manager, 239-4580  
Steve Shepherd, Staff Attorney, 239-0464  
Lola Brown, Texas Register Coordinator, 239-0348

Attachment: Petition

cc: 5 copies to the Chief Clerk for distribution  
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cc (without attachments):

Steve Shepherd, Staff Attorney  
Geoff Kirshbaum, Staff Attorney  
Kathy Vail, Regulation Development Team Leader  
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