

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Commissioners **Date:** November 14, 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.: 2003-1399-RUL

Rule Project No.: 2004-022-PET-NR

Who Submitted the Petition:

The petition was submitted by the Environmental Law and Justice Center on behalf of the Coalition Against Ruffino Trash Transfer Station. The petition was received on October 17, 2003.

What the Petitioners Request:

The petitioner asks that a provision be added to 30 TAC §330.63, Duration and Limits of Permits. The added provision would cause issued municipal solid waste permits to expire automatically if operations at the facility do not commence within five years of permit issuance.

Recommended Action and Justification:

The executive director recommends that rulemaking be initiated, but that staff should evaluate the issues covered in the petition thoroughly--for example, whether a triggering milestone should be commencement of construction, completion of construction, or commencement of operations. The executive director should then recommend appropriate amendments. Triggering expiration on the start of operations may not be the best approach, as most other authorizations have expiration provisions linked to stages of construction.

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 procedures specific to the commission.

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Chapter 330 implements Texas Health and Safety Code, Chapter 361. The sections most applicable to the issues in the petition are §361.088 and §361.110.

Affected Public:

Property owners around certain permitted facilities could be affected. Under the petitioner's proposal, the facility permit would expire if operations did not commence within five years.

Affected Agency Programs:

Waste Permits Division would need to track the construction and operation of newly permitted facilities.

Agency Contacts:

Joseph Thomas, Rule Project Manager, 239-4580
Wayne Harry, Program Lead, 239-6619
Anthony Tatu, Staff Attorney, 239-5778
Lola Brown, Texas Register Coordinator, 239-0348

Attachment: Petition

cc: 5 copies to the Chief Clerk for distribution
Carolyn Brittin
Sonia Ralls
David Schanbacher
Ashley K. Wadick
Dan Eden
Derek Seal
Randolph Wood
Jim Muse
Office of General Counsel
Joseph Thomas
Lola Brown

cc (without attachments):
Wayne Harry, Program Lead
Anthony Tatu, Staff Attorney
Kathy Vail, Regulation Development Team Leader
Kari Bourland, Program Liaison
Sharon Smith, OLS Liaison