

Texas Commission on Environmental Quality



DECISION OF THE COMMISSION REGARDING THE PETITION FOR RULEMAKING FILED BY RICHARD C. BONART, DVM

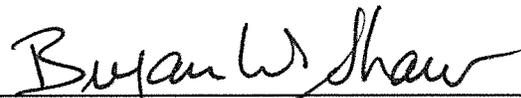
Docket No. 2016-1877-PET
Rule Project No. 2017-004-PET-NR

On December 15, 2016, the Texas Commission on Environmental Quality (Commission) considered the petition for rulemaking filed by Richard C. Bonart, DVM (petitioner). The petitioner filed the request on October 27, 2016 and requested amendments to 30 TAC Chapter 111, Control of Air Pollution from Visible Emissions and Particulate Matter, Subchapter A, Visible Emissions and Particulate Matter, Division 4, Materials Handling, Construction, Roads, Streets, Alleys, and Parking Lots. The petitioner requested a revision of § 111.149(b) to exclude temporary parking lots used less than five days from the rule that requires the application of water, oil, or chemicals for dust suppression.

IT IS THEREFORE ORDERED BY THE COMMISSION, pursuant to Administrative Procedure Act, Texas Government Code, § 2001.021, 30 Texas Administrative Code § 20.15, and Texas Water Code, § 5.102 and § 5.103 to deny the petition. The decision to deny the petition is based on the Commission's conclusion that current 30 Texas Administrative Code § 111.149(b) was evaluated as part of the attainment demonstration State Implementation Plan for the El Paso area and the controls were considered technologically and economically feasible. Further, petitioner's proposed rule revision would constitute a revision to the El Paso State Implementation Plan for PM₁₀ that may not be approvable by the United States Environmental Protection Agency as Section 110(l) of the Federal Clean Air Act states that the EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. In addition, as the rule language is currently written, it allows broad latitude in implementing dust suppression-control measures and the Commission favors this flexibility to accommodate the undoubtedly wide variety of temporary parking lots in El Paso. The Commission further interprets § 111.149(b) to require watering of temporary parking lots only as necessary to prevent visible emissions.

This Decision constitutes the decision of the Commission required by the Texas Government Code, § 2001.021(c).

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY



Bryan W. Shaw, Ph.D., P.E., Chairman

1-6-17

Date Signed