

TITLE 22 EXAMINING BOARDS
Part 10 Texas Funeral Service Commission
Chapter 205 - Cemeteries and Crematories

The Texas Funeral Service Commission (Commission) proposes to amend Title 22 Texas Administrative Code, Part 10, Chapter 205 – Cemeteries and Crematories by amending rule §205.11 – Prerequisites for Cremation.

In 2014, the agency updated Chapter 205 in its entirety as a part of the agency’s quadrennial rules review. The update was intended to improve ease of use for both consumers and industry and to improve efficiencies for agency staff as the rules were updated and clarified

However, it has been brought to the agency’s attention that changes made to §205.11 – Prerequisites for Cremation have created delays in the cremation process which negatively impact consumers and their requests for timely disposition of their loved ones.

This proposed rule would clarify that the death record required by Texas Health and Safety Code Chapter 716.051 could be the burial transit permit as required by 25 Texas Admin. Code §181.2. In effect, this clarification allows only two documents to be presented before cremation can occur.

FISCAL NOTE: Janice McCoy, Executive Director, has determined for the first five-year period the new chapter is in effect there will be no fiscal implication for state or local governments, or local economies.

PUBLIC BENEFIT/COST NOTE. Ms. McCoy has determined that, for each year of the first five years the proposed new rule will be in effect, the public benefit is requested cremations are done in a timely manner. There is no additional economic cost to an individuals required to comply with the proposed new rule. There is no anticipated negative impact on local employment.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES. The agency has determined that there will be no economic effect on small or micro-businesses or rural communities.

GOVERNMENT GROWTH IMPACT STATEMENT. Ms. McCoy also has determined that, for the first five years a rule would be in effect: 1. The proposed rule does not create or eliminate a government program; 2. The proposed rule will not require a change in the number of employees of the agency; 3. The proposed rule will not require additional future legislative appropriations; 4. The proposed rule will not require an increase in fees paid to the agency; 5. The proposed rule will not create a new regulation; 6. The proposed rule will not expand, limit, or repeal an existing regulation; 7. The proposed rule will not increase or decrease the number of individuals subject to the rule's applicability; and 8. The proposed rule will neither positively nor negatively affect this state's economy.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT. Under Government Code §2001.0045, a state agency may not adopt a proposed rule if the fiscal note states that the rule imposes a cost on regulated persons, including another state agency, a special district, or a

local government, unless the state agency: (a) repeals a rule that imposes a total cost on regulated persons that is equal to or greater than the total cost imposed on regulated persons by the proposed rule; or (b) amends a rule to decrease the total cost imposed on regulated persons by an amount that is equal to or greater than the cost imposed on the persons by the rule. There are exceptions for certain types of rules under §2001.0045(c). The proposed new rule does not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government because the rule only clarifies the documents that are need before a cremation can be performed. Therefore, the agency is not required to take any further action under Government Code §2001.0045(c).

The agency has determined Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the agency is not required to complete a takings impact assessment regarding this proposal.

Comments on the proposal may be submitted in writing to Mr. Kyle Smith at PO Box 12217, Capitol Station, Austin, Texas 78711-1440, 512-479-5064 (fax) or electronically to info@tfsc.texas.gov. Comments must be received no later than thirty (30) days from the date of publication of this proposal.

This proposal is made pursuant to Health and Safety Code §716.002, which authorizes the Texas Funeral Service Commission to adopt rules considered necessary for carrying out the Commission's work, and Health and Safety Code §716.051, which outlines the documents necessary for cremation.

No other statutes, articles, or codes are affected by this section.

§205.11– Prerequisites for Cremation

(a) The following ~~Three~~ documents are required to cremate deceased human remains:

- (1) a cremation authorization form signed by the person responsible for making arrangements for final disposition; and
- (2) a death certificate or other death record indicating that the deceased human remains may be cremated; ~~and.~~

(b) A ~~(3)~~ a burial transit permit is as required under by 25 TAC §181.2 and may be considered other death record under (a)(2).

The agency certifies legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.