

SUBCHAPTER G : SOLID WASTE AND URANIUM BY-PRODUCT EMERGENCY ORDERS
§35.401, §35.402
Effective December 10, 1998

§35.401. Emergency Orders for Non-hazardous Solid Waste Activities and Underground Injection of Uranium By-product Materials.

(a) The commission or executive director may issue a mandatory or prohibitory emergency order under Texas Water Code, §5.512, regarding any activity of solid waste management within its jurisdiction, if it determines that an emergency exists requiring immediate action to protect public health and safety or the environment.

(b) An emergency order issued under this section shall not exceed 90 days, but may be renewed once.

(c) An emergency order affecting an underground injection control permit may be issued for a time no longer than that required to prevent the hazard, and may not be renewed. The injection authorized by the emergency order may not result in the movement of fluids into underground sources of drinking water.

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§35.402. Emergency Actions Concerning Hazardous Waste.

(a) Whenever there is good reason to believe that the storage, processing, or disposal of hazardous waste should be authorized to alleviate an imminent and substantial endangerment to human health or safety or the environment; and if there are no alternative, permitted facilities reasonably available for the proper management of the waste, the commission or executive director, on its own motion, or at the request of the executive director or any other party, may issue an emergency order under Texas Water Code, §5.512, authorizing the processing, storage, or disposal of the hazardous waste at a nonpermitted facility or at a permitted facility with no authorization under its permit to receive the hazardous waste in need of immediate management.

(b) In addition to the information required under §35.24 of this title (relating to Application for Emergency or Temporary Order) a party, other than the executive director, requesting such an emergency order shall include a description of any alternatives investigated.

(c) The executive director shall review the request and may require the requesting party to supply additional information as may be reasonably required to assist in making the findings set out in subsection (a) of this section.

(d) An emergency order issued under this section:

- (1) shall not exceed 90 days in duration;
 - (2) shall clearly specify the hazardous wastes to be received, and the manner and location of their processing, storage, or disposal;
 - (3) may be terminated by the commission at any time without notice and hearing if it determines that termination is appropriate to protect human health or the environment;
 - (4) shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this chapter and Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste); and
 - (5) for underground injection control permits issued under this section, shall be for no longer duration than required to prevent the hazard. The injection authorized may not result in the movement of fluids into underground sources of drinking water.
- (e) Public notice shall accompany the emergency order, shall allow at least 45 days for public comment, and shall be given at least 30 days before the hearing on the emergency order. Public notice of the order may be given at the same time as public notice and opportunity for comment on the order, and the two notices may be combined. The notice shall include:
- (1) the name and address of the applicant;
 - (2) the name and location of the hazardous waste management facility;
 - (3) a brief description of the wastes involved;
 - (4) a brief description of the action authorized or to be authorized, and the reasons for authorization;
 - (5) the duration of the emergency order; and
 - (6) the name and address of the commission (the office granting the order).