



August 16, 1999

Ms. Margaret Hoffman, Director  
Environmental Law Division  
Texas Natural Resource Conservation Commission  
P.O. Box 13087  
Austin, Texas 78711-3087

OR99-2314

Dear Ms. Hoffman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126635.

The Texas Natural Resource Conservation Commission (the "commission") received a request for information regarding Materials Recovery Enterprises. You state that the commission has made some of the information available to the requestor. You contend that the remaining responsive information is excepted from disclosure under section 552.111 of the Government Code. We have considered the exception you claim and reviewed the documents at issue.

Section 552.111 excepts from disclosure "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ), and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. An agency's policymaking functions do not encompass internal administrative or personnel matters; disclosure of information relating to such matters will not inhibit free discussion among agency personnel as to policy issues. ORD 615 at 5-6. Additionally, section 552.111 does not generally except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. ORD 615 at 4-5.

The submitted documents are a spreadsheet. You contend that section 552.111 protects certain highlighted portions of the spreadsheet. Based on your description of the highlighted information, we conclude that this information is advice, opinion or recommendation on a policymaking issue. Thus, the commission may withhold the highlighted information under section 552.111.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 126635

Encl. Submitted documents

cc: Ms. Dionne T. White  
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New Orleans, Louisiana 70130  
(w/o enclosures)