



TCEQ REGULATORY GUIDANCE

Field Operations Division

RG-049 (Revised)

February 2005

Outdoor Burning in Texas

The purpose of this guidance document is to assist the general public, the regulated community, and responsible state and local officials in interpreting the revised Outdoor Burning Rule, Title 30 Texas Administrative Code (TAC), Sections 111.201 through 111.221.

This guidance document covers all aspects of the outdoor burning rule, including:

- Exceptions for allowable outdoor burning;
- General requirements for allowing outdoor burning;
- Notification requirements for allowable outdoor burning; and
- Frequently asked questions related to outdoor burning.

State and local officials may find Appendices C and D – a copy of the rule itself and background information for each section of the rule – to be particularly useful.

This guidance document is not a substitute for the actual rule. A current copy of the rule can be obtained from the Texas Commission on Environmental Quality (TCEQ) by calling 512/239-0028, or at:

www.tceq.state.tx.us/rules

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The Outdoor Burning Rule Explained

The current version of the Outdoor Burning Rule is the result of a concerted effort to produce a streamlined, unambiguous rule that could be applied consistently and fairly throughout Texas. The purpose of the rule is to protect the environment, promote public health and safety, and avoid nuisance conditions through the sensible regulation of outdoor burning.

Summary of the Rule

The Outdoor Burning Rule first prohibits outdoor burning anywhere within the state of Texas, and then allows for exceptions for specific situations in which burning is necessary or does not pose a threat to the environment. The rule also prescribes conditions that must be met to protect the environment and avoid other adverse impacts when burning is allowed. If burning seems necessary, but the situation does not fit an exception stated in the rule, then it is possible to request from the TCEQ a special authorization to conduct burning.

Exceptions to the Prohibition

The standard exceptions, explained below, cover the most common situations in which burning is an acceptable practice. In most of these instances, the burning must follow the general requirements outlined later in this document. It may be necessary to notify the TCEQ, local governmental agencies, and neighbors before conducting burning under one of these exceptions. See Table 1 in Appendix A for details on notification requirements in specific situations. There may be local ordinances or county burn bans that regulate burning; if so, the requirements and restrictions of those ordinances must also be met.

Firefighter Training

Entities that conduct firefighter training may obtain authorization to conduct outdoor burning for training, including training in the operating of fire extinguishers. To obtain the authorization, the entity responsible for the training must send a written request to the local air pollution control agency or, if there is no such agency, the TCEQ regional office. For a list of regional offices, see Appendix B.

If training occurs regularly at a dedicated facility, it may be possible to notify the regional office of all such training events with one annual written notification. If a dedicated training facility conducts training

regularly but less frequently than weekly, a telephone or fax notification will be necessary 24 hours in advance of each event.

Burning conducted to train firefighters does not have to conform with the general requirements for other forms of allowable outdoor burning, but the burning must not cause a nuisance or traffic hazard. The TCEQ may revoke this authorization if it is used in an attempt to avoid complying with other portions of the Outdoor Burning Rule.

Fires for Recreation, Ceremony, Cooking, or Warmth

Outdoor burning is allowed when used solely for recreational or ceremonial purposes, in the noncommercial preparation of food, or exclusively as a means to provide warmth in cold weather. In other words, campfires, bonfires, and cooking fires are allowed. Fires built under this exception may not contain electrical insulation, treated lumber, plastics, construction or demolition materials not made of wood, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, or items containing natural or synthetic rubber. The other general requirements on allowable outdoor burning do not apply to fires covered by this exception, but the burning must not cause a nuisance or traffic hazard.

Fires for Disposal or Land Clearing

This broad exception covers the six more specific categories described below.

Domestic waste. Domestic waste – in other words, household trash or rubbish – may be burned when the local governmental entity that has jurisdiction over such matters does not provide on-premises trash collection service or authorize a business or other entity to provide on-premises trash collection service. To qualify for this exception, the waste must come from a property that is both designed to be a private residence and used exclusively as a private residence for no more than three families. The waste must also be burned on the property where it was produced. According to TCEQ rules (30 TAC Section 101.1), *domestic wastes* includes those wastes that normally result from the function of life within a residence – for example, kitchen garbage, untreated lumber, cardboard boxes, packaging, clothing, grass, leaves, and branch trimmings. Such things as tires, construction debris that is not wood, furniture, carpet, electrical wire, and appliances are not considered to be domestic waste and cannot be burned. Other conditions of the general requirements for outdoor burning do not apply to the burning of domestic waste, but this practice must not cause a nuisance or traffic hazard.

Diseased animal carcasses. These may be burned when burning is the most effective means of controlling the spread of disease. The general

requirements for outdoor burning do not apply to this exception, but burning under this exception must not cause a nuisance or traffic hazard.

Animal remains burning by a veterinarian. A veterinarian may burn animal remains and medical waste associated with the animal, not including sharps (e.g., needles), in his or her care on his or her property if the property is located outside the corporate boundaries of a municipality (or within the corporate boundaries of a municipality if annexed on or after September 1, 2003). This section prevails over any other law that authorizes a governmental entity to abate a public nuisance (Section 801.361, Occupations Code).

Maintenance or land clearing. Trees, brush, and other plant growth may be burned to maintain rights-of-way, clear land, or maintain the banks of water canals when there is no practical alternative and when the materials are generated only from the property on which the burning occurs. Burning carried out under this exception must conform to the general requirements for outdoor burning and may not produce adverse effects for structures containing sensitive receptors – for example, occupied buildings, barns, or greenhouses.

Crop residues. When there is no practical alternative, crop residues may be burned for agricultural management. This burning must meet the same conditions as maintenance burns, unless an administrative order specifically for the crop in question establishes other conditions.

Brush, trees, etc., off-site. A county or municipal government may request *site and burn approval* from the TCEQ regional office to burn accumulations of brush, trees, and other plant growth that cause a condition detrimental to public health and safety. The burn must occur at a site owned by the local government and may be authorized only when there is no practical alternative. Such burns may be done no more frequently than every two months, and may not be used in place of other sound brush management practices. Burning conducted under this exception must conform to the general requirements for allowable outdoor burning. The burning may not occur at a municipal solid waste landfill without obtaining permission from the TCEQ beforehand.

Prescribed Burns

This exception covers the use of fire to manage forests, rangeland, wildland and wildlife, and, in 14 counties, coastal salt marsh. All of these forms of burning are subject to the general requirements for allowable outdoor burning. Coastal salt-marsh burning also entails more specific notification requirements, which are stated in subsections 111.211(2)(A) and (B).