



Washington County

ENVIRONMENTAL HEALTH DEPARTMENT

Outdoor Burning Rules Guidance

Statutes:

Texas Water Code 7.177; 7.182; 7.183; and 7.187

Texas Health and Safety Code 382.018 and 382.085

TCEQ Rules:

30 Texas Administrative Code 111.201 thru 111.221

30 Texas Administrative Code 101.4 and 101.5

No outdoor burning is allowed except as provided by these rules, which are in effect statewide at all times. More restrictive requirements of county burn bans and local ordinances prohibiting burning inside city limits must also be met.

Fire Training

Outdoor burning is allowed for firefighter training (30 TAC §111.205).

Such burning is subject to the following requirements:

- The burning must not cause a nuisance or traffic hazard (30 TAC §101.4 and §101.5).
- The party responsible for the training must submit a written request for authorization to the appropriate Texas Commission on Environmental Quality (TCEQ) regional office (30 TAC §111.205).
- Authorization may be revoked by the TCEQ if it is used to circumvent other portions of these rules (30 TAC §111.205).

Recreation, Ceremony, Cooking, and Warmth

Outdoor burning is allowed for recreation, ceremony, cooking, or warmth (30 TAC §111.207). *Such burning is subject to the following requirements:*

- The burning must not cause a nuisance or traffic hazard (30 TAC §101.4 and §101.5).
- Electrical insulation, treated lumber, plastics, non-wood construction/demolition materials, heavy oils, asphaltic materials, explosive materials, chemical wastes, and items containing rubber may not be burned (30 TAC §111.219(7)).

Disposal Fires

Outdoor burning is allowed for disposal of domestic waste (30 TAC §111.209(1)).

Such burning is subject to the following requirements:

- The burning must not cause a nuisance or traffic hazard (30 TAC §101.4 and §101.5).
- The domestic waste must be from a private residence housing not more than 3 families, and the waste must be generated only from that property (30 TAC §111.209(1)).
- Domestic waste is waste normally resulting from the function of life within a residence (30 TAC §111.209(1)).
- Examples of wastes that may be burned include such things as: kitchen garbage, untreated lumber, cardboard boxes, packaging (including plastics and rubber), clothing, grass, leaves, and branch trimmings (30 TAC §111.209(1)).
- Examples of wastes not considered domestic waste that may not be burned include such things as: tires, non-wood construction debris, furniture, carpet, electrical wire, and appliances (30 TAC §111.209(1)).

Outdoor burning is allowed for disposal of diseased animal carcasses (30 TAC §111.209(2)). Such burning is subject to the following requirements:

- The burning must not cause a nuisance or traffic hazard (30 TAC §101.4 and §101.5).
- When burning is the most effective means of controlling the spread of disease (30 TAC §111.209(2)).

Outdoor burning is allowed for disposal of animal remains by veterinarians (30 TAC §111.209(3)). Such burning is subject to the following requirements:

- The burning must be in accordance with Texas Occupations Code, §801.361, Disposal of Animal Remains.

Outdoor burning is allowed for on-site burning of trees, brush, grass, leaves, branch trimmings, or other plant growth (30 TAC §111.209(4) & (B)).

Such burning is subject to the following requirements:

- The burning must not cause a nuisance or traffic hazard (30 TAC §101.4 and §101.5).
- The burning must be by the owner of the property or any other person authorized by the owner (30 TAC §111.209(4)).
- The material must be generated only from that property. This provision includes, but is not limited to, the burning of plant growth generated as a result of right-of-way maintenance, landclearing operations, and maintenance along water canals (30 TAC §111.209(4) & (B)).
- Burning may be conducted only when wind direction and other meteorological conditions are such that smoke will not cause adverse effects to any public road, landing strip, navigable water, or off-site man-made structure utilized for human residence or business, the containment of livestock, or the housing of sensitive live vegetation. (Not including such things as fences, hunting blinds, or facilities used solely for the storage of hay or other livestock feeds) (30 TAC §111.219(3)).
- If at any time the burning causes smoke to blow onto a road, it is the responsibility of the person initiating the burn to post flag-persons on affected roads. (30 TAC §111.219(4)).
- Burning must be conducted in compliance with the following meteorological and timing considerations: (30 TAC §111.219(6)).
 - Burning may commence no earlier than one hour after sunrise, must be completed on the same day not later than one hour before sunset, and the extent of the burn must not be increased at night. A responsible party must attend to the burning while it is active and the fire is progressing. Residual fires and smoldering objects must be extinguished if the smoke creates a nuisance or traffic hazard at night.
 - Burning may be conducted only when wind speed is 6 – 23 mph.
 - Burning may not be conducted during temperature inversions.
- Electrical insulation, treated lumber, plastics, non-wood construction/demolition materials, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, and items containing rubber may not be burned. (30 TAC §111.219(7)).

Outdoor burning is allowed at a site designated for consolidated burning of waste (30 TAC §111.209(5)). Such burning is subject to the following requirements:

- The burning must not cause a nuisance or traffic hazard (30 TAC §101.4 and §101.5).
- The waste must be generated from specific residential properties (30 TAC §111.209(5) & (E)).
- A designated site must be located outside of a municipality and within a county with a population of less than 50,000 (30 TAC §111.209(5)).
- The owner of the designated site or the owner's authorized agent must:
 - Post at all entrances to the site a placard measuring a minimum of 48 inches in width and 24 inches in height and containing, at a minimum, the words "DESIGNATED BURN SITE - No burning of any material is allowed except for trees, brush, grass, leaves, branch trimmings, or other plant growth generated from specific residential properties for which this site is designated. All burning must be supervised by a fire department employee. For more information call {PHONE NUMBER OF OWNER OR AUTHORIZED AGENT}." The placard(s) must be clearly visible and legible at all times (30 TAC §111.209(5)(A)).
 - Designate specific residential properties for consolidated burning at the designated site (30 TAC §111.209(5)(B)).
 - Maintain a record of the designated residential properties. The record must contain the description of a platted subdivision and/or a list of each property address. The description must be made available to TCEQ or local air pollution control agency staff within 48 hours, if requested (30 TAC §111.209(5)(C)).
 - Ensure that all waste burned at the designated site consists of trees, brush, grass, leaves, branch trimmings, or other plant growth (30 TAC §111.209(5)(D)).

- Ensure that all such waste was generated at specific residential properties for which the site is designated (30 TAC §111.209(5)(E)).
- Ensure that all burning at the designated site is directly supervised by an employee of a fire department who is part of the fire protection personnel, as defined by Texas Government Code, §419.021, and is acting in the scope of the person's employment. The fire department employee shall notify the appropriate TCEQ regional office with a telephone or electronic facsimile notice 24 hours in advance of any scheduled supervised burn. The TCEQ shall provide the employee with information on practical alternatives to burning (30 TAC §111.209(5)(F)).

Outdoor burning is allowed for crop residue burning for agricultural management purposes (30 TAC §111.209(6)). Such burning is subject to the following requirements:

- The burning must not cause a nuisance or traffic hazard (30 TAC §101.4 and §101.5).
- There must be no practical alternative to burning (30 TAC §111.209(7)).
- Prior to burning for forest management purposes, the Texas Forest Service must be notified (30 TAC §111.219(1)).
- Burning must be outside city limits except where the city has enacted ordinances which permit burning consistent with the Texas Clean Air Act, Subchapter E, Authority of Local Governments (30 TAC §111.219(2)).
- Burning may be conducted only when wind direction and other meteorological conditions are such that smoke will not cause adverse effects to any public road, landing strip, navigable water, or off-site man-made structure utilized for human residence or business, the containment of livestock, or the housing of sensitive live vegetation. (Not including such things as fences, hunting blinds, or facilities used solely for the storage of hay or other livestock feeds) (30 TAC §111.219(3)).
- If at any time the burning causes smoke to blow onto a road, it is the responsibility of the person initiating the burn to post flag-persons on affected roads (30 TAC §111.219(4)).
- Burning must be conducted downwind of or at least 300 feet from any off-site man-made structure utilized for human residence or business, the containment of livestock, or the housing of sensitive live vegetation located on adjacent properties unless prior written approval is obtained from the adjacent occupant with possessory control (30 TAC §111.219(5)).
- Burning must be conducted in compliance with the following meteorological and timing considerations: (30 TAC §111.219(6)).
 - Burning may commence no earlier than one hour after sunrise, must be completed on the same day not later than one hour before sunset, and the extent of the burn must not be increased at night. A responsible party must attend to the burning while it is active and the fire is progressing. Residual fires and smoldering objects must be extinguished if the smoke creates a nuisance or traffic hazard at night.
 - Burning may be conducted only when wind speed is 6 – 23 mph.
 - Burning may not be conducted during temperature inversions.
- Electrical insulation, treated lumber, plastics, non-wood construction/demolition materials, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, and items containing rubber may not be burned (30 TAC §111.219(7)).

Outdoor burning is allowed for disposal of brush, trees, and other plant growth by a county or municipal government (30 TAC §111.209(7)).

Such burning is subject to the following requirements:

- The burning must not cause a nuisance or traffic hazard (30 TAC §101.4 and §101.5).
- Prior approval from the TCEQ is required (30 TAC §111.209(7)).
- The plant growth must be causing a detrimental public health and safety condition (30 TAC §111.209(7)).
- There must be no practical alternative to burning (30 TAC §111.209(7)).
- The plant growth must be burned at a site owned by the county or municipal government (30 TAC §111.209(7)).
- Such burning may be done no more frequently than once every two months (30 TAC §111.209(7)).
- Such burns cannot be conducted at municipal solid waste landfills unless prior authorization is granted under §111.215 of this title (30 TAC §111.209(7)).
- Prior to burning for forest management purposes, the Texas Forest Service must be notified (30 TAC §111.219(1)).
- Burning must be outside city limits except where the city has enacted ordinances which permit burning consistent with the Texas Clean Air Act, Subchapter E, Authority of Local Governments (30 TAC §111.219(2)).

- Burning may be conducted only when wind direction and other meteorological conditions are such that smoke will not cause adverse effects to any public road, landing strip, navigable water, or off-site man-made structure utilized for human residence or business, the containment of livestock, or the housing of sensitive live vegetation. (Not including such things as fences, hunting blinds, or facilities used solely for the storage of hay or other livestock feeds) (30 TAC §111.219(3)).
- If at any time the burning causes smoke to blow onto a road, it is the responsibility of the person initiating the burn to post flag-persons on affected roads (30 TAC §111.219(4)).
- Burning must be conducted downwind of or at least 300 feet from any off-site man-made structure utilized for human residence or business, the containment of livestock, or the housing of sensitive live vegetation located on adjacent properties unless prior written approval is obtained from the adjacent occupant with possessory control (30 TAC §111.219(5)).
- Burning must be conducted in compliance with the following meteorological and timing considerations: (30 TAC §111.219(6)).
 - Burning may commence no earlier than one hour after sunrise, must be completed on the same day not later than one hour before sunset, and the extent of the burn must not be increased at night. A responsible party must attend to the burning while it is active and the fire is progressing. Residual fires and smoldering objects must be extinguished if the smoke creates a nuisance or traffic hazard at night.
 - Burning may be conducted only when wind speed is 6 – 23 mph.
 - Burning may not be conducted during temperature inversions.
- Electrical insulation, treated lumber, plastics, non-wood construction/demolition materials, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, and items containing rubber may not be burned (30 TAC §111.219(7)).

Prescribed Burns

Outdoor burning is allowed for prescribed burning for forest, range and wildland/wildlife management, and wildfire hazard mitigation purposes (30 TAC §111.211). *Such burning is subject to the following requirements:*

- The burning must not cause a nuisance or traffic hazard (30 TAC §101.4 and §101.5).
- During a burn ban, a permit and written authorization is required thru Washington County prior to conducting a prescribed burn (Texas Local Government Code §352.081, Commissioners Court Order Restricting Outdoor Burning – when in effect).
- Prior to burning for forest management purposes, the Texas Forest Service must be notified (30 TAC §111.219(1)).
- Burning must be outside city limits except where the city has enacted ordinances which permit burning consistent with the Texas Clean Air Act, Subchapter E, Authority of Local Governments (30 TAC §111.219(2)).
- Burning may be conducted only when wind direction and other meteorological conditions are such that smoke will not cause adverse effects to any public road, landing strip, navigable water, or off-site man-made structure utilized for human residence or business, the containment of livestock, or the housing of sensitive live vegetation. (Not including such things as fences, hunting blinds, or facilities used solely for the storage of hay or other livestock feeds) (30 TAC §111.219(3)).
- If at any time the burning causes smoke to blow onto a road, it is the responsibility of the person initiating the burn to post flag-persons on affected roads (30 TAC §111.219(4)).
- Burning must be conducted downwind of or at least 300 feet from any off-site man-made structure utilized for human residence or business, the containment of livestock, or the housing of sensitive live vegetation located on adjacent properties unless prior written approval is obtained from the adjacent occupant with possessory control (30 TAC §111.219(5)).
- Burning must be conducted in compliance with the following meteorological and timing considerations: (30 TAC §111.219(6)).
 - Burning may commence no earlier than one hour after sunrise, must be completed on the same day not later than one hour before sunset, and the extent of the burn must not be increased at night. A responsible party must attend to the burning while it is active and the fire is progressing. Residual fires and smoldering objects must be extinguished if the smoke creates a nuisance or traffic hazard at night.
 - Burning may be conducted only when wind speed is 6 – 23 mph.
 - Burning may not be conducted during temperature inversions.
- Electrical insulation, treated lumber, plastics, non-wood construction/demolition materials, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, and items containing rubber may not be burned (30 TAC §111.219(7)).

Hydrocarbon Burning

Outdoor burning is allowed for hydrocarbon burning from pipeline breaks and oil spills (30 TAC §111.213). *Such burning is also subject to the following requirements:*

- Proper notification to the TCEQ, as set forth in 30 TAC §101.201, and prior authorization from the TCEQ is required (30 TAC §111.213).

Approval of Otherwise Prohibited Outdoor Burning

Outdoor burning not otherwise allowed may be authorized in writing from the TCEQ (30 TAC §111.215).

Responsibility for Consequences of Outdoor Burning

The authority to conduct outdoor burning under this regulation does not exempt or excuse any person responsible from the consequences, damages, or injuries resulting from the burning and does not exempt or excuse anyone from complying with all other applicable laws or ordinances, regulations, and orders of governmental entities having jurisdiction, even though the burning is otherwise conducted in compliance with this regulation (30 TAC §111.221).

Notes

- Burning debris created by fence demolition that contains non-insulated wire and untreated wood is allowed.
- It is understood that things such as stumps may burn for several days; residual fires and smoldering objects not creating a nuisance or traffic hazard need not be extinguished.
- The requirement that a responsible party must attend to the burning while it is active and the fire is progressing does not mean someone has to be in attendance once the fire is virtually complete and is not advancing.
- A practical alternative is an economically, technologically, ecologically, and logistically viable option.
- A temperature inversion is an effect where the normal decrease in temperature with height switches to the temperature increasing with height. An inversion acts like a lid, trapping pollutants below and allowing them to build up.

Enforcement of Outdoor Burning Rules

Background

- The Texas outdoor burning rules were adopted under Chapter 382, Health and Safety Code (Texas Clean Air Act) as published in the Texas Register on September 3, 1996 at page 8505 (second column) cited as 21 TexReg 8505.

Penalties

Misdemeanor

- TWC §7.187(b): Notwithstanding Section 7.177(a)(5), conviction for an offense under Section 382.018, Health and Safety Code, is punishable as:
 - (1) a **Class C Misdemeanor** (fine up to \$500) if the violation does not involve the burning of tires, insulation on electrical wire or cable, treated lumber, plastics, non-wood construction or demolition materials, heavy oils, asphaltic materials, potentially explosive materials, furniture, carpet, chemical wastes, or items containing natural or synthetic rubber.
 - (2) a **Class B Misdemeanor** (fine up to \$2,000, jail up to 180 days, or both) if the violation is a second or subsequent violation not involving the burning of tires, insulation on electrical wire or cable, treated lumber, plastics, non-wood construction or demolition materials, heavy oils, asphaltic materials, potentially explosive materials, furniture, carpet, chemical wastes, or items containing natural or synthetic rubber.
 - (3) a **Class A Misdemeanor** (fine up to \$4,000, jail up to 1 year, or both) if the violation involves the burning of tires, insulation on electrical wire or cable, treated lumber, plastics,

non-wood construction or demolition materials, heavy oils, asphaltic materials, potentially explosive materials, furniture, carpet, chemical wastes, or items containing natural or synthetic rubber.

Enhanced Misdemeanor

- TWC §7.177(a)(5) **Violations of Clean Air Act:** A person commits an offense if the person intentionally or knowingly, with respect to the person's conduct, violates an order, permit, or exemption issued or a rule adopted under Chapter 382, Health and Safety Code.
 - TWC §7.177(b): An offense under this section is punishable for **an individual** by a fine of \$1,000 to \$50,000, confinement for a period not to exceed 180 days, or both.
 - TWC §7.177(c): An offense under this section is punishable for a person **other than an individual** by a fine of \$1,000 to \$100,000.

Felony

- TWC §7.182(a) **Reckless Emission of Air Contaminant and Endangerment:** A person commits an offense if the person recklessly, with respect to the person's conduct, emits an air contaminant that places another person in imminent danger of death or serious bodily injury, unless the emission is made in strict compliance with Chapter 382, Health and Safety Code, or a permit, variance, or order issued or a rule adopted by the commission.
 - TWC §7.182(b): An offense under this section is punishable for **an individual** by a fine of \$1,000 to \$250,000, confinement for a period not to exceed five years, or both.
 - TWC §7.182(c): An offense under this section is punishable for a person **other than an individual** by a fine of \$2,000 to \$500,000.
- TWC §7.183(a) **Intentional or Knowing Emission of Air Contaminant and Knowing Endangerment:** A person commits an offense if the person intentionally or knowingly, with respect to the person's conduct, emits an air contaminant with the knowledge that the person is placing another person in imminent danger of death or serious bodily injury unless the emission is made in strict compliance with Chapter 382, Health and Safety Code, or a permit, variance, or order issued or a rule adopted by the commission.
 - TWC §7.183(b): An offense under this section is punishable for **an individual** by a fine of \$2,000 to \$500,000, confinement for a period not to exceed five years, or both.
 - TWC §7.183(c): An offense under this section is punishable for a person **other than an individual** by a fine of \$5,000 to \$1,000,000.

This document is intended only as a general explanation of the outdoor burning rules in Texas, and does not alter or replace the actual rules in any way.

**Washington County Courthouse Annex
105 West Main Street, Suite 100
Brenham, Texas 77833
Phone 979-277-6290 Fax 979-277-6291
www.co.washington.tx.us**

REV 2014-5