

COMMISSIONERS COURT
REGULAR SESSION
April 11, 2005

The Hunt County Commissioners Court met this day at 10:00A.M. with all Commissioners present with Judge Joe Bobbitt presiding. Minutes of the previous meeting were approved as submitted.

OLD BUSINESS:

9392 On the motion by Ralph Green, second by Kenneth Thornton, the Court approved the Final Plat for Graham Point Estates Phase II, presented by Sam Havens. Commissioner Green stated a \$75,000 line of credit for road in lieu of performance bond has been obtained. Also, drainage plan is in place.

NEW BUSINESS:

9393 On the motion by Green, second by Phillip Martin, the Court approved funding (\$400 - \$500) for a catered lunch – for an 8-10 hour day training course to be held at the Middle School, April 30, 2005 for Hunt County Employees and volunteers pertaining to Homeland Security. To be charged out of Homeland Security / Emergency Management funds.

9394 On the motion by Martin, second by Jim Latham, the Court approved transfer of two radios to Quinlan Police Department and three radios to Hawk Cove Police Department with 2 PC towers to be auctioned off. *See Attachments.*

9395 On the motion by Judge Bobbitt, second by Martin, the Court approved payment of an additional \$4,000.78 in missing funds from a Special Account at the Hunt County Sheriff's Department. Due to prior replacement by the Court of \$16,860.73 in August 2003 of missing funds from an Inmate Trust Account and a \$2,777.08 shortage in March 2004, Judge Bobbitt stated, all due to sloppy accounting, the Court made the following stipulation -

9396 On the motion by Green, second by Latham, the Court agreed reimbursement of these (\$4,000.78) missing funds to be paid out of the Sheriff's Department Budget; once funds are recovered to be placed back into the Sheriff's Department Budget. The Court stipulated each department has to be accountable. Judge Bobbitt stated the Court may not

see any of these funds, but we will always have a controller in that office. *See*

Attachments.

— ‘Discuss and possibly take action on Outdoor Burning regulations in Hunt County:’

Judge Bobbitt advised the Court, we are not changing our policy, we are following the existing state law. We can only tell the public if a burn ban is in effect, not give permission to burn. Amy Pritchitt – Environmental Officer for TCEQ was present to discuss this issue with the Court.

— Court went into recess at 11:25A.M.; Court reconvened at 11:33A.M.

— ‘Discuss and possibly take action on Courthouse Security, pertaining to movements of inmates to and from the pertaining to movements of inmates to and from the District Courts.’ No action taken – Agreement was made by the Court for Policy to be put back on the Agenda.

9397 On the motion by Green, second by Martin, the Court approved preliminary plat for Hidden Meadow Phase I in Pct 2.

9398 On the motion by Green, second by Thornton, the Court approved request of FEC Electric to construct electrical power distribution facilities along and across CR2184 in Pct 2.

9399 On the motion by Green, second by Thornton, the Court approved Final Plat for J. D. Hogwash Ranch in Pct 2 presented by Jerry Wisdom.

9400 On the motion by Green, second by Martin, the Court approved replat for The Oaks subdivision in Pct 2. Commissioner Green explained to the Court, plat was approved approximately one month ago, an error was located causing necessity for replat changing three lots, presented by Hal Mollenkopf.

9401 On the motion by Thornton, second by Green, the Court approved low bid from MHC Kenworth for new truck tractor, 4x2 day cab regular conventional for \$52,692.15 for Pct 1. All bids on file in Personnel Office.

9402 On the motion by Martin, second by Thornton, the Court accepted all bids for evaluation for new truck tractor, 6x4 day cab regular conventional for Pct 3. Bids on file in Personnel Office. Commissioner Martin asked this to be placed on OLD BUSINESS next Court.

9403 On the motion by Martin, second by Green, the Court approved bid for box culverts from Yoder Construction. Bids on file in Personnel Office.

9404 On the motion by Judge Bobbitt, second by Latham, the Court approved transfer of (2) vehicles from the Sheriff's Department to the Quinlan Police Department. Chief White advised the Court, the Sheriff's Department would keep vehicle 1987 Mercury #2meb75F6HX677648 and transfer the 2000 Crown Victory # 2fafp71wlyx111659.

9405 On the motion by Martin, second by Green, the Court approved bids for clear span Bridges 20, 30 and 40 feet. Bids on file in Personnel Office.

ADDENDUM:

9406 On the motion by Judge Bobbitt, second by Martin, the Court approved a blanket amount of \$250,000.00 per mile on sub division policy concerning road construction bonds, or road bond amount to be determined by the Commissioner.

HEAR AND DISCUSS:

Craig Mizer – Area Engineer with TXDot was present with Eric Stinson our new Maintenance Supervisor for Hunt and Rains County, stating this new addition to their staff will help maximize our employees and our equipment. Commissioner Latham and Commissioner Martin thanked TxDot for their help in promoting safety in various areas.

9407 On the motion by Martin, second by Latham, the Court approved accounts payable. Judge Bobbitt abstained from the vote.

— There were no line-item budget transfers.

PERSONNEL AND PAYROLL:

<u>COMMISSIONER PCT 2:</u>	Remove Rodney English due to death, effective 3-28-05. Add Kevin Cook as Equipment Operator G5 at \$28,000.00, effective 4-18-05.
<u>MAINTENANCE:</u>	Raise Amy Warren Custodian I from \$17,732.00 to \$19,332.00, effective 4-11-05. Employee evaluations on file, funds available. Add Michael Happen as part time hourly Custodian I at \$7.00 per hour, effective 3-30-05. 90 day training period.
<u>PERSONNEL:</u>	Add David Williamson as part – time Personnel Assistant at \$8.00 per hour, effective 4-11-05.

SHERIFF:

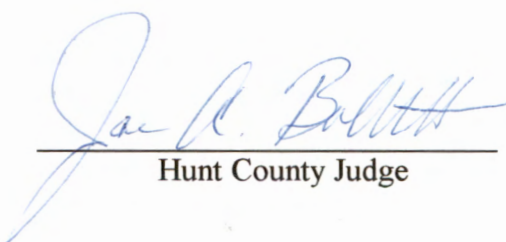
Add Jonathan Rose as Detention Officer at \$22,941.00 per year, effective 4-6-05.
 Add Jonathan Jones as Detention Officer at \$22,941.00 per year, effective 4-6-05.
 Add Chandra Saxton as Detention Officer at \$22,941.00, effective 4-6-05.

Remove Barbara Barton as Receptionist at the Sheriff's Department due to her resignation, effective 5-5-05.

Remove Chandra Saxton due to her resignation, effective 4-7-05.

9408 On the motion by Martin, second by Latham, the Court approved personnel and payroll changes.

_____ Court Adjourned at 12:35P.M. Minutes approved this 25 day of April, 2005.



 Hunt County Judge

Attest:



Hunt County Clerk



#9394

FILED FOR RECORD
 at 2 o'clock P M

APR 11 2005

LINDA BROOKS
 County Clerk, Hunt County, Tex.
 By [Signature]

HUNT COUNTY SHERIFF

CRIMINAL JUSTICE CENTER
 903-455-3501
 Fax 903-453-6843

DON ANDERSON, Sheriff
 2801 Stuart Street
 Greenville, Texas 75401

Memorandum To: Hunt County
 Comm. Court

From: Chief Deputy Robert White

Subject: Transfer of unused radios to Hawk Cove

The Hawk Cove Police Department has requested that three of the radios, that have been replaced by a U.S. Gov. Homeland Security Grant for the Hunt County Sheriff's Office, be transferred to their Department by the Hunt County Commissioner's Court. These radios would be used for and by the Hawk Cove Police Department. The Police Department has a mutual aid agreement with Hunt County.

It is requested that this be placed on the Commissioner's Court agenda for the meeting of April 11, 2005.

[Signature]
 Robert J. White

9395-9396

SHERIFF'S OFFICE HISTORY OF ACCOUNTS

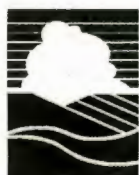
FILED FOR RECORD

at 2 o'clock P M

APR 11 2005

1. 05/28/03 - Opened Bank One Inmate Trust Account.
2. 06/26/03 - Opened Bank One Special Account.
3. 06/26/03 - Opened Bank One Jail Commissary Account.
4. 07/15/03 - Closed Bank of America Inmate Trust Account.
5. 08/11/03 - Decreased FY03 budget by \$16,860.73 to replace missing funds and deposited funds in the Hunt County Sheriff's Office Bank One INMATE TRUST ACCOUNT to correct Bank of America shortage. These shortages occurred prior to May 28, 2003.
6. 08/18/03 - Closed Bank of America Jail Commissary Account.
7. 10/24/03 - Provided the Sheriff's Office with a "SUMMARY OF ACTIVITY FOR THE INMATE TRUST FUND BANK OF AMERICA ACCOUNT."
8. 10/24/03 - Provided the Sheriff's Office with "RECOMMENDATIONS FOR THE DEVELOPMENT OF INTERNAL CONTROLS FOR FINANCIAL ACCOUNTABILITY IN THE HUNT COUNTY DETENTION CENTER."
9. 11/10/03 - Closed Bank of America Special Account.
10. 11/25/03 - Letter sent to Judge Bobbitt and Commissioners requesting the addition of a Full-time Controller Position in the Sheriff's Office.
11. 03/31/04 - Refunded additional shortages found to the INMATE TRUST ACCOUNT covering months of September 2003 thru February 2004 in the mount of \$2,377.08.
12. April 2004 - Provided Sheriff with letter addressing concerns with the Inmate Trust Account and the Sheriff's Office Special Account.
13. April 2004 - Hired Full Time Controller.
14. March 2005 - Debbie Thomas requested \$4000.78 to replace missing funds in the SPECIAL ACCOUNT for FY2003/2004. These funds are not related to the previously stated missing funds in the Inmate Account. The Special Account is a separate bank account used for the sole purpose of collections of fines and cash bonds to be reimbursed to courts with jurisdiction.

 LINDA BROOKS
 County Clerk, Hunt County, Tex
 By: *[Signature]*



TCEQ REGULATORY GUIDANCE

Field Operations Division

RG-049 (Revised)

February 2005

FILED FOR RECORD
at 2 o'clock P M

APR 11 2005

LINDA BROOKS
County Clerk, Hunt County, Tex.
By *[Signature]*

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).

Pipeline Breaks and Oil Spills

An oil spill or pipeline break itself may trigger a requirement to notify the appropriate TCEQ regional office. Once notified of the spill, the regional office staff will decide whether burning is necessary to protect the public welfare. If permission to burn is given, sampling and monitoring to determine and evaluate environmental impacts also may be required.

Other Situations

If a situation seems to require outdoor burning, but it is not covered by the previously described exceptions, permission to burn may be requested from the TCEQ regional office. The regional office staff, acting on behalf of the executive director, will consider whether there is a practical alternative, whether the burning will cause or contribute to a nuisance or traffic hazard, and whether the practice will violate any federal or state primary or secondary ambient air quality standard. Such an authorization may require that certain procedures be followed to control or abate emissions. The authorization may be revoked at any time if the burning is found to cause a nuisance, violate any provision of an applicable permit, cause a violation of any air quality standard, or not conform with the specified conditions.

General Requirements for Burning

The Outdoor Burning Rule sets the following general requirements for allowable outdoor burning. These requirements apply to the specific situations for which they are mentioned above. They are designed to reduce the likelihood that burning will create a nuisance, cause a hazard, or harm the environment. The party responsible for the burn remains liable for damages, injuries, or other consequences that may result from burning, even when it is carried out in compliance with these regulations.

1. Notify the Texas Forest Service before carrying out any prescribed or controlled burns that are intended for forest management.
2. Burn only outside the corporate limits of a city or town, unless the incorporated city or town has an ordinance that permits burning and is consistent with the Texas Clean Air Act Subchapter E (TCAA).
3. Begin or continue burning only when the wind direction and other weather conditions are such that the smoke and other pollutants will not present a hazard to any public road, landing strip, or navigable water (e.g., lake, river, stream, or bay) or have an adverse effect on any off-site structure containing "sensitive receptors" (e.g., a residence, business, farm building, or greenhouse).

4. Post someone to flag traffic if at any time the burning causes or may tend to cause smoke to blow onto or across a road or highway.
5. Keep fires downwind of or at least 300 feet away from any neighboring structure that contains sensitive receptors. This requirement may be waived only with the prior written approval of whoever owns or rents the adjacent property *and* either resides or conducts business there.
6. Begin burning no earlier than one hour after sunrise, end it the same day and no later than one hour before sunset, and make sure that a responsible party is present while the burn is active and the fire is progressing. At the end of the burn, extinguish isolated residual fires or smoldering objects if the smoke they produce can be a nuisance or a traffic hazard. Don't start burning unless weather conditions are appropriate for smoke to dissipate (winds of at least 6 miles per hour; no temperature inversions) and for you to be able to control the fire (winds no faster than 23 miles per hour).
7. Don't burn any electrical insulation, treated lumber, plastics, construction or demolition materials not made of wood, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, or items that contain natural or synthetic rubber.

Practical Alternatives to Burning

The Outdoor Burning Rule defines a *practical alternative* as “an economically, technologically, ecologically, and logistically viable option.” The following methods can sometimes serve as practical alternatives to burning as a means to dispose of waste. With creative thinking and the help of the local TCEQ regional office, you may be able to develop still other ways to avoid burning your waste.

Recycling. Manually or mechanically separate salvageable metals from other material, and sell them at a salvage yard.

Composting. Wastes from landscape maintenance can often be composted on-site easily and cleanly. Other similar wastes – even paper, in some instances – can be composted under the right conditions.

Mechanical chipping or mulching. This could be the first step in composting wastes, or the mulch that is produced could be put to use for soil enrichment and moisture retention. In some cases, the mulch could become a marketable product, be put to use where it is produced, or be given to individuals or nurseries. If the material cannot be used as a landscape mulch, chipping can still be useful to reduce the volume of waste that must be disposed of by some other means.

Logging. Timber sometimes can be converted to a marketable product – lumber, pulp, or firewood – as one way to reduce the costs of disposal. The remaining small limbs and brush are then much easier to dispose of through one of the other alternatives.

Landfills. Some landfills have recycling centers, with chippers for wood waste and collection bins for paper, plastic, and glass. Type IV landfills accept brush. Contact your local landfills for details.

Air curtain incineration (trench burning). Many land clearing contractors have portable devices, known as *trench burners* or *air curtain incinerators*, that can be used to dispose of brush or untreated lumber with minimized emissions. These facilities must be authorized by the TCEQ prior to their construction at a burn site. Many of the contractors and distributors provide leasing services.

Related TCEQ Publications

The TCEQ has a variety of publications available on issues related to outdoor burning. Several of them provide detailed explanations of specific alternatives to outdoor burning, for example:

- RG-325: *Used Oil Recycling Handbook: Guidance for Used Oil Handlers*
- GI-036: *Composting and Mulching*
- RG-419: *Disposal of Domestic or Exotic Livestock Carcasses*

To order single copies of these or other TCEQ publications, call TCEQ Publications Distribution at 512/239-0028 or write:

TCEQ Publications
MC-195
PO Box 13087
Austin TX 78711-3087

Frequently Asked Questions

The questions in this section were compiled by the TCEQ regional offices. They are actual questions frequently asked about outdoor burning by the general public and the regulated community.

General Questions

Burning Permit?

How do I obtain a burning permit from the TCEQ?

You don't: The TCEQ does not issue burning permits. Outdoor burning in general is prohibited in the state of Texas, although the TCEQ Outdoor Burning Rule (Appendix C) does allow certain exceptions. If your situation fits all requirements for one of the exceptions described in the rule, you may conduct burning, as long as you comply with the burn conditions specified in the rule. Depending on the circumstances, you may also need the approval of the appropriate regional office before you burn. Remember to also check local ordinances or other regulations about burning. (See the next question for further details.)

Not an Exception, but No Practical Alternative

My situation doesn't fit any of the exceptions given in the rule, but I still think that burning is the only practical alternative. What can I do?

Submit a written request to the TCEQ regional office that serves the area where you think you need to conduct outdoor burning. Acting on behalf of the executive director, the regional staff will review your request and evaluate the claim of no practical alternative. If they agree that none can be found, they will provide you a written authorization to burn that outlines specific conditions you must follow to control the emissions.

When to Notify the TCEQ?

The rule authorizes (or the TCEQ has authorized) my outdoor burning. Before I actually set the fire, do I have to notify the TCEQ?

It depends. For certain types of burning, the rules require you to notify the TCEQ regional office. For others, you are not required to notify the TCEQ. But before you strike that match, remember that you may also have to contact other agencies – or even your neighbors – as well as the TCEQ. See Table 1 in Appendix A for the notification requirements for the various kinds of burning covered under the rule. Even if the rule doesn't require you to notify the TCEQ, you will find that the local regional office has up-to-date information about weather conditions and other factors you should consider before doing any outdoor burning – for example, which way (and how fast) the wind is blowing, whether winds are expected to shift, whether your area is under a temperature inversion, the exact local time of sunrise or sunset, and whether high ozone levels are forecast.

What about My Neighbors?

It looks like I can get the TCEQ's approval to burn, but my neighbors may complain. Do I have to worry about what they think?

Yes. Besides the issue of common courtesy, the Outdoor Burning Rule requires that certain kinds of burning be conducted downwind of or at least 300 feet from any structure containing sensitive receptors (for example, a residence, business, barn, or greenhouse) located on adjacent properties unless written approval is obtained beforehand from the owner or occupant – the one who will suffer adverse effects – of the adjacent or downwind property. Also, the burning may not cause a nuisance or traffic hazard.

Do Local Rules Apply?

We are burning in compliance with TCEQ regulations, but the local fire marshal objects. Is our compliance with state rules not enough?

Your compliance with TCEQ regulations does not mean that other, stricter laws, regulations, or ordinances cannot be enforced by city, county, or other governmental entities. You must comply with all such regulations (e.g., county burn bans) as well as the TCEQ rules.

Reporting Illegal Burning

How do I report somebody who is conducting illegal outdoor burning?

Report the burning to the local air pollution control office, or the nearest TCEQ regional office.

Firefighter Training

We want to conduct fire training for our volunteer fire department (VFD). Can we burn this abandoned house?

The training of firefighters may be authorized as an exception to the prohibition on outdoor burning. Submit a written request on behalf of the VFD to the local air pollution control agency, or, if there is no local agency, the TCEQ regional office having jurisdiction. Authorization may be granted orally or in writing. According to the rule, the burning shall be authorized unless your VFD receives a notice of denial within 10 working days after the date of postmark or the date of personal delivery of the request. (Working days do not include Saturdays, Sundays, or state or federal holidays.) To ensure that the fire would not cause the formation or dispersion of toxic substances, the local air pollution control agency or the

reviewing TCEQ regional office may require that the building be stripped of many common construction materials – including electrical wiring, lead flashing, carpet, asbestos, and many others – before the fire is ignited.

Note that the burning of abandoned buildings by a fire department is not automatically considered fire training. There must be a specific benefit to the fire department. Simply preventing the spread of fire from an abandoned building to neighboring property is not considered training. Such situations constitute an attempt to circumvent the prohibitions in the Outdoor Burning Rule. In cases in which such circumvention is present, the outdoor burning is prohibited.

Fires for Disposal

At Landfills

What may be burned at municipal solid waste landfills?

No routine burning is allowed at municipal solid waste landfills, unless otherwise authorized by the TCEQ in writing.

Land Clearing

Inside City Limits

I have some uncleared property inside the city limits that I would like to develop. Hauling the trees and brush off would not be practical because it is too expensive. May I dispose of the trees and brush by burning?

Unless the county or municipal government has enacted ordinances that permit burning consistent with state law, this situation does not meet any of the exceptions to the prohibition on outdoor burning. You may need to consider alternatives such as chipping or trench burning. If there is no practical alternative, you may request written permission from the TCEQ for authorization to burn. Such requests are evaluated on a case-by-case basis. Contact the appropriate TCEQ regional office for guidance.

Trench Burning

Why are housing subdivisions allowed to dig pits and burn their land clearing materials within city limits?

They are using a process called air curtain incineration (trench burning), which is authorized under a permit by rule or standard permit. Companies

that specialize in that business must obtain prior TCEQ approval and follow specific written operating procedures.

Plant Materials

Tree Trimming Service

I am in the business of trimming people's trees and shrubs in town. I realize that the tree limbs and trimmings can't be burned in town, but I own some land outside of town. May I take it out there and burn it?

No. The Outdoor Burning Rule allows the burning of land clearing materials only at the site where the land clearing is done. In order to burn under state law, that site must be outside of municipal corporate limits, unless the city or town has an ordinance that permits burning and is consistent with state law.

Brush Piles

There are tree limbs in an area of our community that pose a public safety risk. What are our options for solving this problem?

Brush, trees, and other forms of plant growth that present a detriment to public health and safety may be burned by a county or municipal government at a site it owns upon receiving site and burn approval from the TCEQ. Such burning can only be authorized when there is no practical alternative, and it may be done no more than once every two months. The local government has the burden of proving that there is no practical alternative and that the growth poses a detriment to public health or safety. This procedure may not be used continually as a standard operating procedure to augment the normal brush disposal process. Such burning cannot be conducted at municipal solid waste landfills unless authorized in writing by the TCEQ.

Storm Damage

A bad storm knocked a lot of trees down in our community. May we burn the debris? May we haul it to the landfill and burn it?

Regardless of whether the brush is to be burned onsite or at the landfill, this type of burning is not specifically authorized in the exceptions to the prohibition on outdoor burning. However, an authorization to dispose of storm debris may be granted if there are no practical alternatives. Such requests are evaluated on a case-by-case basis. Contact the appropriate TCEQ regional office for guidance.

Domestic Trimmings

May I burn trees that I have cut down in my backyard?

Grass, leaves, and hedge and branch trimmings from residences are all considered to be “domestic waste.” If your local government provides or authorizes a private collector to provide the collection of domestic waste, this type of material may not be burned. If such collection is not available, then it may be burned. However, the burning must not create a nuisance or traffic hazard, and you must comply with any applicable local rules or ordinances.

Trash

Can't Afford Collection Service

I live in a small rural town where most people have their trash picked up by a commercial trash collection service. I can't afford to pay that money each month. May I burn my trash in a 55-gallon drum in my backyard?

If the local city ordinance does not make it mandatory that trash be picked up, or there is no governmentally authorized or provided on-premises trash collection service, you may burn domestic waste on the property where it is produced, as long as it is not prohibited by local rule or ordinance and does not create a nuisance or a traffic hazard.

Domestic Waste?

What is considered to be domestic waste?

“Domestic wastes,” defined in 30 TAC Section 101.1(23), is the garbage and rubbish normally resulting from the functions of life within a residence. It includes food waste, food packaging, residential yard, grass, leaves and branch trimmings, and clothing. It does not include tires, construction debris that is not wood, furniture, carpet, appliances, and other items that residential households do not normally generate as waste.

Waste from a Business

I want to burn boxes from my business. The TCEQ rules say that I may burn waste from my residence, but what about waste from my business?

According to the Outdoor Burning Rule, you can't burn business waste. The exception that allows the burning of domestic waste applies only if the property is used exclusively as a private residence and the local governmental entity does not provide or authorize the collection of waste at the premises where the waste is generated. There is no such exception for businesses. You might want to look into the possibility of recycling your boxes or investigate ways that you or your neighbors could reuse the boxes.

Scrap Tires

We have a real hard time disposing of scrap tires. Will the TCEQ let us burn them?

No, for at least two good reasons. First, the rule specifically prohibits the outdoor burning of tires – and any other items that contain natural or synthetic rubber – because of the air pollution that would result. Second, Texas is at least as innovative as anywhere else in the world in finding good uses for waste tires. The TCEQ's Scrap Tire Program can give you better ideas for disposing of those old tires.

Oil and Hydrocarbons

Oil Spills

If my company has an oil spill, may we burn the oil to dispose of it?

Perhaps. The burning of oil or other hydrocarbons spilled from pipeline breaks may be allowed, if the TCEQ determines that the burning is necessary to protect the public welfare. Ask for guidance from the appropriate TCEQ regional office.

Oil Filters

May I burn my old oil filters in a metal barrel on my property?

No. Take oil filters to an authorized recycling site, along with your used oil.

Animal Remains Burning by a Veterinarian

I am a licensed veterinarian. Do I need authorization to burn animals that died while in my care?

No, as long as you are located outside the corporate boundaries of a municipality (or within the corporate boundaries of a municipality if annexed on or after September 1, 2003) and you burn the animal remains on property owned by you. You can also burn medical waste associated with the animal, with the exception of sharps (e.g., needles). See section 801.361 of the Texas Occupations Code for details.

Agricultural Management

Sugarcane Fields

Why are the sugar growers allowed to burn the cane fields?

There are no technically or economically feasible alternatives. Years ago, the Rio Grande Valley Sugar Growers, Inc., requested the authorization to burn the cane fields in association with each harvest. The TCEQ, after extended air monitoring studies, concluded that no practical alternative existed for this industry. The agency then adopted an agreed order that outlines conditions under which the sugarcane industry could conduct burning.

Crop Residue

The burning of corn stubble produces a great amount of smoke. Is this type of burning authorized?

Burning for crop management is allowed if there is no practical alternative, if it is conducted under appropriate weather conditions and at appropriate times, and if it does not cause a nuisance or traffic hazard.

Prescribed Burning

Who can I contact for technical information relating to prescribed burning?

A good source is the Prescribed Burning Board (PBB). The PBB was established within the Texas Department of Agriculture during the 76th Texas Legislature in 1999. The PBB sets standards for prescribed burning, develops a comprehensive training curriculum for prescribed burn managers, sets standards for certification, recertification and training of burn managers, establishes minimum education and professional requirements for instructors for the approved curriculum, and sets minimum insurance requirements for prescribed burn managers.

Recreational and Other Purposes

Outdoor Grills

May I cook food on my charcoal grill in my backyard?

Yes. Fires used in the noncommercial preparation of food are allowed.

Fireplaces

May I build a fire in my fireplace?

Yes. Indoor fires are not regulated by the outdoor burning rule. Domestic-use fireplaces are authorized under the TCEQ's *de minimis* rules in 30 TAC Section 116.119.

Campfires

Are campfires allowed inside the city limits?

Fires used solely for recreational or ceremonial purposes are allowed by state law; however, local ordinance may prohibit this burning. Make sure no oils, asphalt, synthetic rubber, or other materials that produce heavy smoke are in the fire: they could release toxic gases or cause a nuisance or traffic hazard.

Appendix A

Table 1. Outdoor Burning: When Should You Notify the TCEQ?

Purpose of Burning	Notify the TCEQ		Notify Anyone Else	Rule Subsection No.
	In Writing	Orally		
Fire Training				
Statewide	10 working days prior	Not required	1	111.205(a)
Dedicated facility, used at least once per week	Annual required	Not required	1	111.205(b)
Dedicated facility, used less frequently	Annual required	Required; must be 24 hours before event	1	111.205(c)
Disposal				
Domestic Waste	Not required	Not required	2	111.209(1)
Diseased animal carcasses	Not required	Not required	2	111.209(2)
Animal remains and associated medical waste	Not required	Not required	2	111.209(3)
On-site, clearing	When possible	When possible	2,4	111.209(4)
Crop residue	When possible	When possible	2,4	111.209(5)
Brush, off-site, by county or city	Get prior approval	When possible	2,4	111.209(6)
Prescribed burns				
Other than coastal salt marsh	When possible	When possible	2,3,4	111.211(1)
Coastal salt marsh	15 working days prior	Required	4	111.211(2)(A)
Other				
Oil spills	Spill notification and get prior approval	Required	2	111.213
Ceremonial fires	Not required	Not required	2	111.207

Note: This table shows notification requirements only. See also the general requirements for allowable burning given later in this document.

1. If there is a local air pollution control agency, notify that agency.

2. Check local ordinances, and notify any other governmental entity having jurisdiction over the area--for example, the county fire marshal, local fire department, or local law enforcement officials.

3. Notify the Texas Forest Service before conducting prescribed burns for forest management.

4. Before conducting the burn, determine whether any "structures containing sensitive receptors" (for example, residences, greenhouses, stables, etc.) are within 300 feet of and in the general direction downwind from the site of the burn. If so, obtain written permission from the occupants or operators of those structures before you begin the burn.

Appendix B



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ)

P.O. Box 13087 • Austin, Texas 78711-3087 • 512/239-1000

REGIONAL OFFICES

1 – AMARILLO	2 – LUBBOCK	3 – ABILENE
Regional Director - Brad Jones 3918 Canyon Dr. Amarillo, TX 79109-4933 806/353-9251 FAX: 806/358-9545 <hr/> Perryton Office 511 South Main, Perryton, TX 79070 806/435-8059 FAX: 806/434-8443	Regional Director - Jim Estes 4630 50th St., Ste. 600 Lubbock, TX 79414-3520 806/796-7092 FAX: 806/796-7107	Regional Director - Winona Henry 1977 Industrial Blvd. Abilene, TX 79602-7833 325/698-9674 FAX: 325/692-5869
4 – DALLAS/FORT WORTH	5 – TYLER	6 – EL PASO
Regional Director - Frank Espino 2309 Gravel Dr. Fort Worth, TX 76118-6951 817/588-5800 FAX: 817/588-5700 <hr/> Stephenville (Confined Animal Feeding Operations) 580-D W. Lingleville Rd., Stephenville, TX 76401 254/965-9200 or 1-800-687-7078	Regional Director - Leroy Biggers 2916 Teague Dr. Tyler, TX 75701-3756 903/535-5100 FAX: 903/595-1562	Regional Director - Archie Clouse 401 E. Franklin Ave., Ste. 560 El Paso, TX 79901-1206 915/834-4949 FAX: 915/834-4940
7 – MIDLAND	8 – SAN ANGELO	9 – WACO
Regional Director - Jed Barker 3300 North A St., Bldg. 4-107 Midland, TX 79705-5451 432/570-1359 FAX: 432/570-4795	Regional Director - Ricky Anderson 622 S. Oakes, Ste. K San Angelo, TX 76903-7013 325/655-9479 FAX: 325/658-5431	Regional Director - Anna Dunbar 6801 Sanger Ave., Ste. 2500 Waco, TX 76710-7826 254/751-0335 FAX: 254/772-9241
10 – BEAUMONT	11 – AUSTIN	12 – HOUSTON
Regional Director - Georgie Volz 3870 Eastex Fwy. Beaumont, TX 77703-1892 409/898-3838 FAX: 409/892-2119	Regional Director - Patty Reeh 1921 Cedar Bend Dr., Ste. 150 Austin, TX 78758-5336 512/339-2929 FAX: 512/339-3795	Regional Director - Don A. Thompson 5425 Polk Ave., Ste. H Houston, TX 77023-1486 713/767-3500 FAX: 713/767-3520
13 – SAN ANTONIO	14 – CORPUS CHRISTI	15 – HARLINGEN
Regional Director - Richard Garcia 14250 Judson Rd. San Antonio, TX 78233-4480 210/490-3096 FAX: 210/545-4329	Regional Director - Buddy Stanley NRC Bldg., Ste. 1200 6300 Ocean Dr., Unit 5839 Corpus Christi, TX 78412-5839 361/825-3100 FAX: 361/825-3101	Regional Director - Carlos Rubinstein 1804 West Jefferson Ave. Harlingen, TX 78550-5247 956/425-6010 FAX: 956/412-5059
South Texas Watermaster Office 210/490-3096 FAX: 210/545-4329 1-800-733-2733	16 – LAREDO Regional Director - Carlos Rubinstein (acting) 707 East Calton Rd., Ste. 304 Laredo, TX 78041-3638 956/791-6611 FAX: 956/791-6716	Rio Grande Watermaster Office 956/430-6056 or 1-800-609-1219 FAX: 956/412-5059 <hr/> Eagle Pass Office 1152 Ferry St., Ste. H, Eagle Pass, TX 78852 830/773-5059 FAX: 830/773-4103
WORLD WIDE WEB		
TCEQ rules, publications, agendas and highlights of Commission meetings and other environmental information are available from the convenience of your computer by accessing the TCEQ World Wide Web Home Page over the Internet at: www.tceq.state.tx.us		

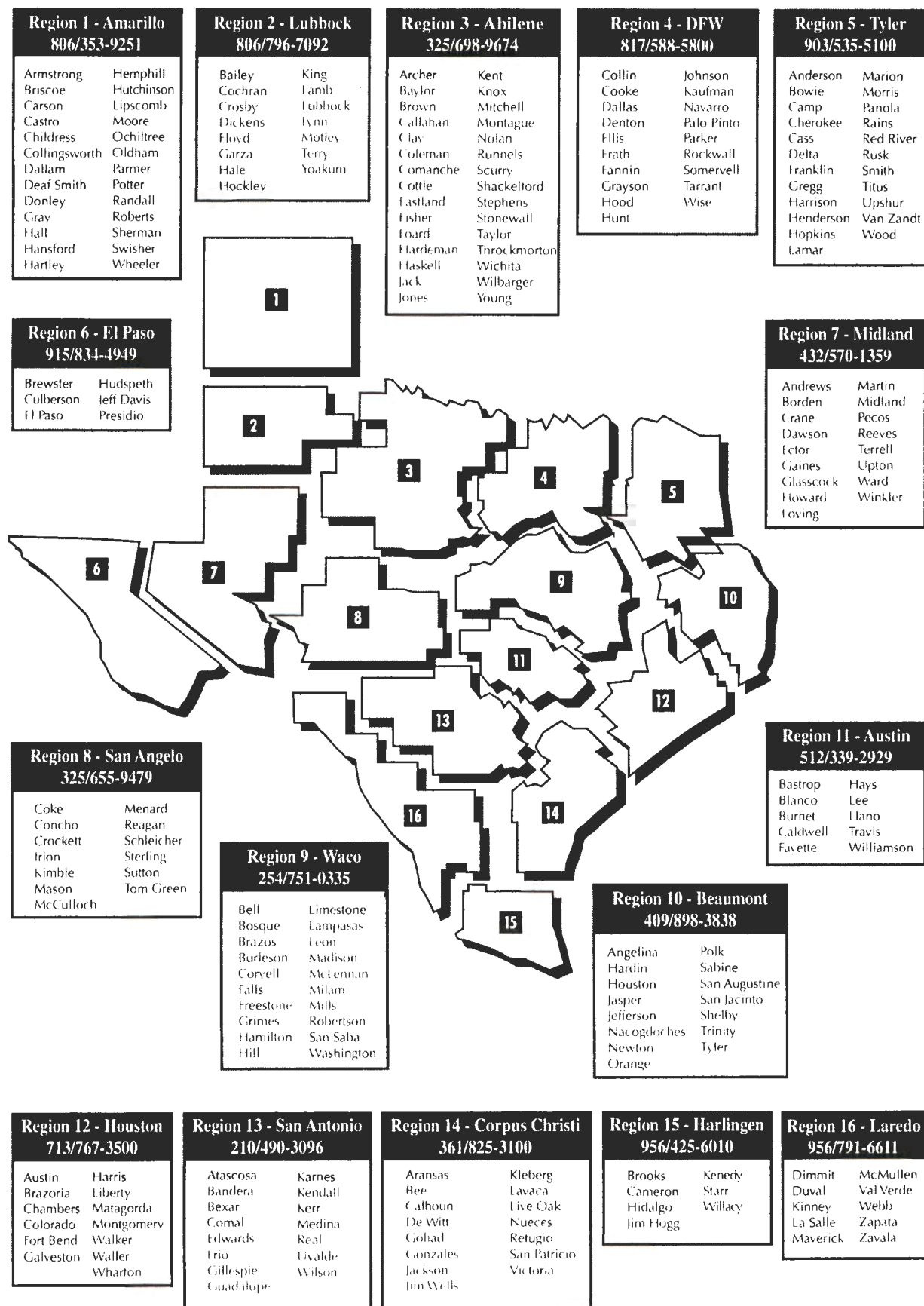
GI-2 (Rev. 12/04)

Outdoor Burning in Texas

TCEQ publication RG-049 ■ Revised ■ February 2005

TCEQ REGIONS

(including counties in each region)



Appendix C

The Outdoor Burning Rule is reproduced below from Title 30 Texas Administrative Code (30 TAC) Sections 111.201 through 111.221. A current copy of the rule can be obtained from the TCEQ by calling (512) 239-0028, or at www.tceq.state.tx.us/rules.

§111.201. General Prohibition.

No person may cause, suffer, allow, or permit any outdoor burning within the State of Texas, except as provided by this subchapter or by orders or permits of the commission. Outdoor disposal or deposition of any material capable of igniting spontaneously, with the exception of the storage of solid fossil fuels, shall not be allowed without written permission of the executive director. The term “executive director,” as defined in Chapter 3 of this title (relating to Definitions), includes authorized staff representatives.

§111.203. Definitions.

Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the Texas Natural Resource Conservation Commission (commission), the terms used by the commission have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the TCAA, the following terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Extinguished – The absence of any visible flames, glowing coals, or smoke.

Landclearing operation – The uprooting, cutting, or clearing of vegetation in connection with conversion for the construction of buildings, rights-of-way, residential, commercial, or industrial development, or the clearing of vegetation to enhance property value, access or production. It does not include the maintenance burning of on-site property wastes such as fallen limbs, branches, or leaves, or other wastes from routine property cleanup activities, nor does it include burning following clearing for ecological restoration.

Practical alternative – An economically, technologically, ecologically and logistically viable option.

Prescribed burn – The controlled application of fire to naturally occurring vegetative fuels under specified environmental conditions and confined to a predetermined area, following appropriate planning and precautionary measures.

Structure containing sensitive receptor(s) – A man-made structure utilized for human residence or business, the containment of livestock, or the housing of sensitive live vegetation. The term “man-made structure”

does not include such things as range fences, roads, bridges, hunting blinds or facilities used solely for the storage of hay or other livestock feeds. The term "sensitive live vegetation" is defined as vegetation which has potential to be damaged by smoke and heat, examples of which include, but are not limited to: nursery production, mushroom cultivation, pharmaceutical plant production, or laboratory experiments involving plants.

Sunrise/Sunset – Official sunrise/sunset as set forth in the United States Naval Observatory tables available from National Weather Service offices.

Wildland – Uncultivated land other than fallow, land minimally influenced by human activity, and land maintained for biodiversity, wildlife forage production, protective plant cover, or wildlife habitat.

§111.205. Exception for Fire Training.

(a) Outdoor burning shall be authorized for training firefighting personnel when requested in writing and when authorized either verbally or in writing by the local air pollution control agency. In the absence of such local entities, the appropriate commission regional office shall be notified. The burning shall be authorized if notice of denial from the local air pollution control agency, or commission regional office is not received within 10 working days after the date of postmark or the date of personal delivery of the request.

(b) Facilities dedicated solely for firefighting training, at which training routinely will be conducted on a frequency of at least once per week, shall submit an annual written notification of intent to continue such training to the appropriate commission regional office and any local air pollution control agency.

(c) Facilities dedicated solely for firefighting training, at which training is conducted less than weekly, shall provide an annual written notification of intent, with a telephone or electronic facsimile notice 24 hours in advance of any scheduled training session. No more than one such notification is required for multiple training sessions scheduled within any one-week period, provided the initial telephone/facsimile notice includes all such sessions. Both the written and telephone notifications shall be submitted to the appropriate commission regional office and any local air pollution control agency.

(d) Authorization to conduct outdoor burning under this provision may be revoked by the executive director if the authorization is used to circumvent other prohibitions of this subchapter.

§111.207. Exception for Fires Used for Recreation, Ceremony, Cooking, and Warmth.

Outdoor burning shall be authorized for fires used solely for recreational or ceremonial purposes, or in the noncommercial preparation of food, or used exclusively for the purpose of supplying warmth during cold weather. Such burning shall be subject to the requirements of §111.219(7) of this title (relating to General Requirements for Allowable Outdoor Burning).

§111.209. Exception for Disposal Fires.

Outdoor burning shall be authorized for:

(1) Domestic waste burning at a property designed for and used exclusively as a private residence, housing not more than three families, when collection of domestic waste is not provided or authorized by the local governmental entity having jurisdiction, and when the waste is generated only from that property. Provision of waste collection refers to collection at the premises where the waste is generated. The term “domestic waste” is defined in §101.1 of this title, (relating to Definitions). Wastes normally resulting from the function of life within a residence that can be burned include such things as kitchen garbage, untreated lumber, cardboard boxes, packaging (including plastics and rubber), clothing, grass, leaves, and branch trimmings. Examples of wastes not considered domestic waste which can not be burned, include such things as tires, non-wood construction debris, furniture, carpet, electrical wire and appliances.

(2) Diseased animal carcass burning when burning is the most effective means of controlling the spread of disease.

(3) Veterinarians in accordance with Texas Occupations Code, §801.361, Disposal of Animal Remains.

(4) On-site burning of trees, brush, and other plant growth for right-of-way maintenance, landclearing operations, and maintenance along water canals when no practical alternative to burning exists and when the materials are generated only from that property. Structures containing sensitive receptors must not be negatively affected by the burn. Such burning shall be subject to the requirements of §111.219 of this title (relating to General Requirements for Allowable Outdoor Burning). When possible, notification of intent to burn should be made to the appropriate commission regional office prior to the proposed burn. For a single project entailing multiple days of burning, an initial notice delineating the scope of the burn is sufficient if the scope does not constitute circumvention of the rule for a continual burning situation. Commission notification or approval is not required.

(5) Crop residue burning for agricultural management purposes when no practical alternative exists. Such burning shall be subject to the

requirements of 111.219 of this title, and structures containing sensitive receptors must not be negatively affected by the burn. When possible, notification of intent to burn should be made to the appropriate commission regional office prior to the proposed burn. Commission notification or approval is not required. This section is not applicable to crop residue burning covered by an administrative order.

(6) Brush, trees, and other plant growth causing a detrimental public health and safety condition may be burned by a county or municipal government at a site it owns upon receiving site and burn approval from the executive director. Such a burn can only be authorized when there is no practical alternative, and it may be done no more frequently than once every two months. Such burns can not be conducted at municipal solid waste landfills unless authorized under §111.215 of this title (relating to Executive Director Approval of Otherwise Prohibited Outdoor Burning), and shall be subject to the requirements of §111.219 of this title.

§111.211. Exception for Prescribed Burn.

Outdoor burning shall be authorized for:

(1) Prescribed burning for forest, range and wildland/wildlife management purposes, with the exception of coastal salt-marsh management burning. Such burning shall be subject to the requirements of §111.219 of this title (relating to General Requirements for Allowable Outdoor Burning), and structures containing sensitive receptors must not be negatively affected by the burn. When possible, notification of intent to burn should be made to the appropriate commission regional office prior to the proposed burn. Commission notification or approval is not required.

(2) Coastal salt-marsh management burning conducted in Aransas, Brazoria, Calhoun, Chambers, Galveston, Harris, Jackson, Jefferson, Kleberg, Matagorda, Nueces, Orange, Refugio, and San Patricio Counties. Coastal salt-marsh burning in these counties shall be subject to the following requirements:

(A) All land on which burning is to be conducted shall be registered with the appropriate commission regional office using a United States Geological Survey map or equivalent upon which are identified significant points such as roads, canals, lakes, and streams, and the method by which access is made to the site. For large acreage, the map should be divided into manageable blocks with identification for each defined block. The information must be received for review at least 15 working days before the burning takes place.

(B) Prior to any burning, notification, either verbal or written, must be made to, and authorization must be received from the appropriate

commission regional office. Notification must identify the specific area and/or block to be burned, approximate start and end time, and a responsible party who can be contacted during the burn period.

(C) Such burning shall be subject to the requirements of §111.219 of this title.

§111.213. Exception for Hydrocarbon Burning.

Outdoor burning shall be authorized for hydrocarbon burning from pipeline breaks and oil spills only upon proper notification as set forth in §101.6 of this title (relating to Notification Requirements for Major Upset), and if the executive director has determined that the burning is necessary to protect the public welfare. Sampling and monitoring may be required to determine and evaluate environmental impacts.

§111.215. Executive Director Approval of Otherwise Prohibited Outdoor Burning.

If not otherwise authorized by this chapter, outdoor burning may be authorized by written permission from the executive director if there is no practical alternative and if the burning will not cause or contribute to a nuisance, traffic hazard or to a violation of any federal or state primary or secondary ambient air standard. The executive director may specify procedures or methods to control or abate emissions from outdoor burning authorized pursuant to this rule. Authorization to burn may be revoked by the executive director at any time if the burning causes nuisance conditions, is not conducted in accordance with the specified conditions, violates any provision of an applicable permit, or causes a violation of any air quality standard.

§111.219. General Requirements for Allowable Outdoor Burning.

Outdoor burning which is otherwise authorized shall also be subject to the following requirements when specified in any section of this subchapter.

- (1) Prior to prescribed or controlled burning for forest management purposes, the Texas Forest Service shall be notified.
- (2) Burning must be outside the corporate limits of a city or town except where the incorporated city or town has enacted ordinances which permit burning consistent with the Texas Clean Air Act, Subchapter E, Authority of Local Governments.
- (3) Burning shall be commenced and conducted only when wind direction and other meteorological conditions are such that smoke and other pollutants will not cause adverse effects to any public road, landing strip, navigable water, or off-site structure containing sensitive receptor(s).

(4) If at any time the burning causes or may tend to cause smoke to blow onto or across a road or highway, it is the responsibility of the person initiating the burn to post flag-persons on affected roads.

(5) Burning must be conducted downwind of or at least 300 feet (90 meters) from any structure containing sensitive receptors located on adjacent properties unless prior written approval is obtained from the adjacent occupant with possessory control.

(6) Burning shall be conducted in compliance with the following meteorological and timing considerations:

(A) The initiation of burning shall commence no earlier than one hour after sunrise. Burning shall be completed on the same day not later than one hour before sunset, and shall be attended by a responsible party at all times during the active burn phase when the fire is progressing. In cases where residual fires and/or smoldering objects continue to emit smoke after this time, such areas shall be extinguished if the smoke from these areas has the potential to create a nuisance or traffic hazard condition. In no case shall the extent of the burn area be allowed to increase after this time.

(B) Burning shall not be commenced when surface wind speed is predicted to be less than six miles per hour (mph) (five knots) or greater than 23 mph (20 knots) during the burn period.

(C) Burning shall not be conducted during periods of actual or predicted persistent low level atmospheric temperature inversions.

(7) Electrical insulation, treated lumber, plastics, non-wood construction/demolition materials, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, and items containing natural or synthetic rubber must not be burned.

§111.221. 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.

Appendix D

Background

Section 111.201 prohibits outdoor burning within the state of Texas, except as provided in §§111.205 – 111.215. It also prohibits storing spontaneously combustible materials other than “solid fossil fuel” (i.e., coal) outside. The exception for coal was made to be consistent with the intent expressed in the preamble to the 1989 revisions to the rule.

Land clearing operation. The last sentence of this definition indicates two different kinds of exclusions. The first, for on-site property waste burns, is covered in §111.209(1); the second, for burns for ecological restoration, is covered in §111.211(1). In practice, prescribed burns and land clearing burns may have similarities: Occasionally it is necessary in a prescribed burn to bulldoze trees or brush into piles to get the appropriate effect. The key difference is the concept of “conversion.” The goal of land clearing is a major change in land use; the goal of a prescribed burn is to restore, maintain, or renew the ecosystem.

Practical Alternative. This definition contains four criteria, each of which must be considered to determine whether an alternative is practical. The standard of judgment should be that of a “reasonable person.” For example, an option that is technologically available but not economically affordable or logistically possible to implement is not practical. A method other than burning may not be practical if it cannot achieve the desired ecological outcome. An alternative that is technologically, economically, and logistically feasible is not practical if it also causes a greater ecological harm than burning.

In § 111.205(b), the wording “...at which training routinely will be conducted...” is used to eliminate potential confusion. For example, if training is conducted weekly except during holidays and when meteorological conditions are unfavorable, the facility still would qualify under this subsection of the rule. Other similar situations may also qualify.

Section 111.209(1) specifies that collection of domestic waste by the local governmental agency or authorized agent must occur at the premises where the waste is generated. The governmental provision of a transfer or convenience station to which residents may bring waste does not constitute collection of domestic waste; therefore, burning may take place in that instance. Any authorization of collection services by a governmental entity must be specific and well-defined. For a government merely to say it is okay for anybody to commercially collect garbage within its jurisdiction does not constitute authorized collection for the purposes of this rule.

Section 111.209(5) is a recognition of an agricultural practice that continues in many parts of the state. The key factor is whether a practical alternative exists. Determining whether there is a practical alternative requires evaluating such things as the type of crop, soil moisture level, soil nutrient benefits, cropping sequence, and costs of alternative disposal methods.

Section 111.209(6) was added to deal with situations in which vegetative accumulation has the potential to do such things as obstruct the flow of water and cause flooding or provide habitat for vermin, but where it is not feasible to burn on-site because doing so would create a nuisance or traffic hazard. Each such burn requires prior approval from the regional office. A site cannot be designated by the municipality or county and used continually as a standard operating procedure to augment the normal brush disposal process. By so doing, the municipality or county establishes a de facto landfill, invoking restrictions of the Resource Conservation and Recovery Act (RCRA). RCRA stipulations that allow the "infrequent" burning of vegetative matter provide the rationale for the two-month burn frequency. The intent is that the governmental entity will not conduct such a burn more frequently than once every two months, no matter how many sites it may have available. For example, it is not permissible for a governmental entity to conduct a burn at one site and then have another burn at another site a few days later, in essence circumventing the intent of the rule by staggering off-site fires.

Section 111.211 is a recognition of fire as a necessary management tool for particular situations for which there is no practical alternative. All such burns are subject to the General Requirements for Allowable Outdoor Burning (§111.219).

Section 111.213 provides a mechanism for remediation to avoid additional environmental degradation in an emergency, as by preventing a petroleum substance from entering a waterway. Once the emergency is under control, it is not permissible to burn the material used to absorb the hydrocarbon or other wastes associated with emergency control. This section should not be used to sanction disposal. Note that the Outdoor Burning Rule refers to §101.6 (relating to Notification Requirements for Major Upsets). However, this section has been repealed and replaced by §101.201 (relating to Emissions Events Reporting and Recordkeeping Requirements).

Section 111.219(6)(A) allows flexible burn opportunities with consideration for meteorological conditions conducive to dispersion. The requirement for having a responsible party in attendance during the active burn phase does not mean someone has to be in attendance once the fire is virtually complete and is not advancing – once it is principally glowing coals with possibly some patchy residual fires. The extent of the burn may not be allowed to increase after the one-hour-before-sunset limit. A fire

that has burned down to glowing coals has consumed most of the volatile substances and will not progress as a flame. It is understood that such things as stumps may burn for several days. Residual fires and/or smoldering objects that do not have the potential to create a condition of nuisance or traffic hazard need not be quenched. For example, if one is burning 100 acres with a road on one side and no sensitive structures in other directions from the burn area, it would be prudent to extinguish residual fires and/or smoldering objects within a swath along the boundary with the road where the potential for nuisance or traffic hazard exists, but allow the remaining portion of the burn site to subside at a natural rate.

Section 111.219(7) specifically prohibits the burning of insulated wire without prohibiting the burning of piles created by fence demolition where wire and untreated wood wastes are involved.