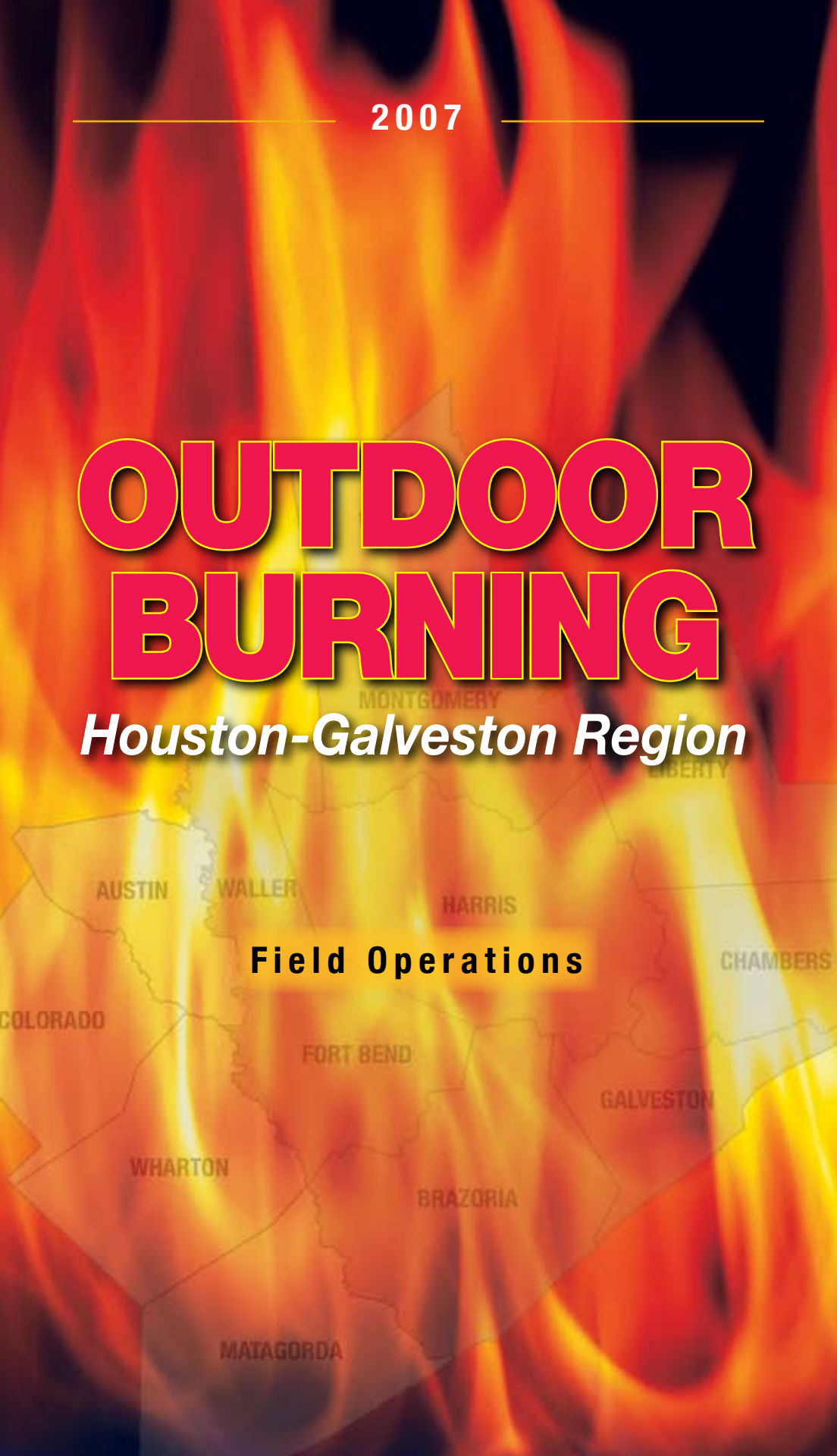


2007

OUTDOOR BURNING

Houston-Galveston Region

Field Operations



Outdoor Burning in the Houston-Galveston Region














The Outdoor Burning Rule

Outdoor Burning, in general, is illegal in Texas. There are some exceptions in which burning is allowed. In those cases, the Outdoor Burning Rule has been designed to protect the environment and promote public health and safety.

If Outdoor Burning Meets an Exception

- The party responsible for the burn must be present and remains liable for damages, injuries or other consequences that may result from burning, even when it is carried out in compliance with these regulations.
- Burn only outside the corporate limits of a city or town, unless the incorporated city or town has an ordinance, consistent with the Texas Clean Air Act, Subchapter E, that permits burning.
- Burn only when the wind direction and weather conditions are such that smoke and other pollutants will not present a hazard to any public road, landing strip, or navigable water (lake, river, stream, bay) or have an adverse effect on any off-site structure containing “sensitive receptors” (residence, business, farm building, greenhouse).
- Keep fires downwind of, or at least 300 feet away from, any neighboring structure that contains sensitive receptors. This requirement may be waived with the prior written approval of whoever owns or rents the adjacent property and either resides or conducts business there.
- Post someone to flag traffic if at any time the burning causes smoke to blow onto a road or highway.
- Begin burning no earlier than one hour after sunrise; end it the same day and no later than one hour before sunset.
- 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.

If a burning situation does not fit an exception, but seems necessary, then a request for burning authorization can be made to the Texas Commission for Environmental Quality (TCEQ) Region 12 office at 713-767-3714.

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Practical Alternatives to Burning

Practical Alternatives are defined as “economically, technologically, ecologically, and logistically viable options.” With creative thinking and the help of the TCEQ Region 12 office, it is possible to recommend other methods to dispose of waste rather than burning it.

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. Similar wastes—even paper, in some instances—can be composted under the right conditions.

Mechanical Chipping or Mulching: The mulch that is produced could be put to use for soil enrichment and moisture retention, or used to create compost. 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 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.

Landfills: Some landfills have recycling centers, with chippers for wood waste and collection bins for paper, plastic and glass.

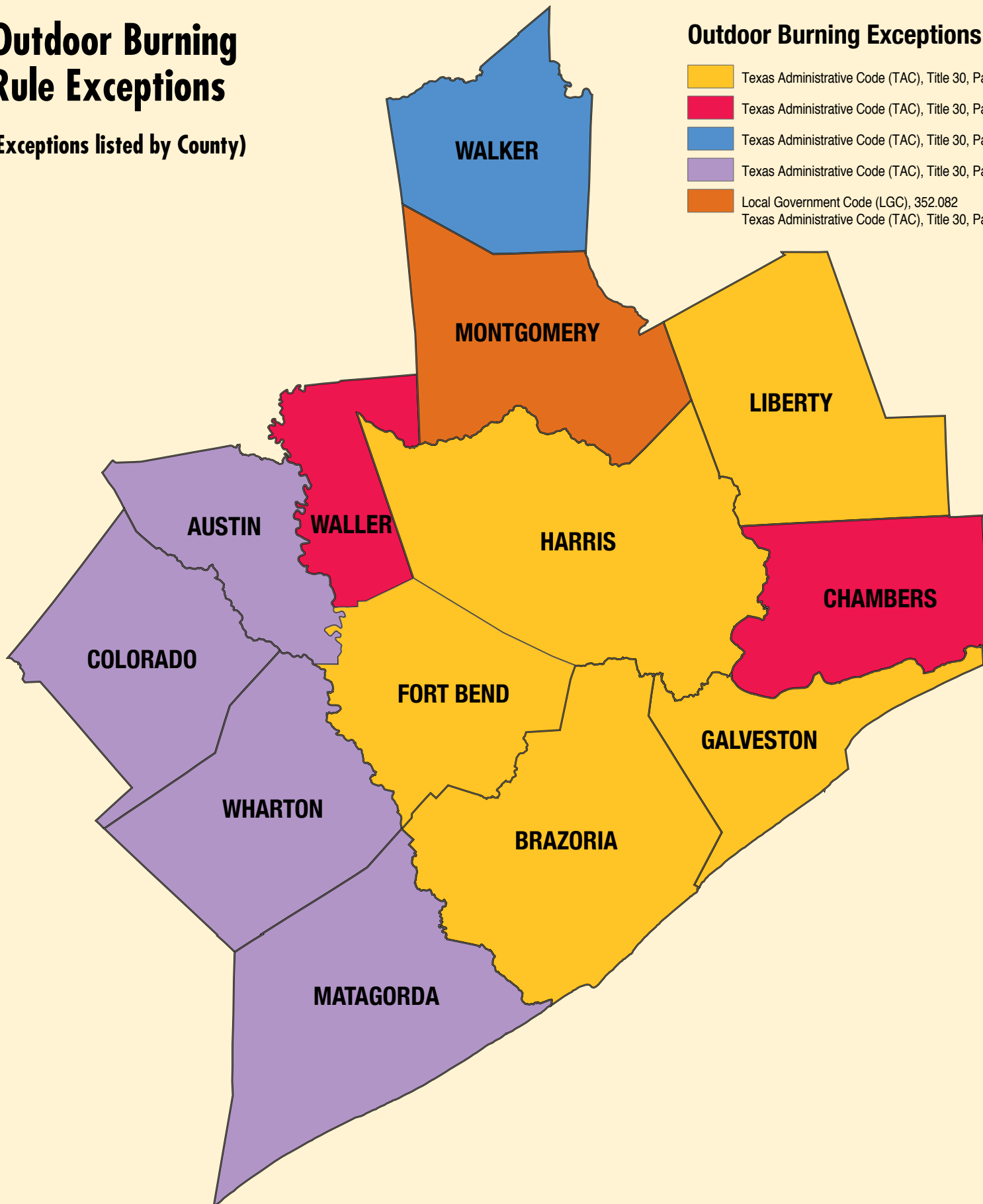
Air-Curtain Incineration (Trench Burning): Many land clearing contractors have portable devices, known as trench burners or air-curtain incinerators, that can be used to dispose of brush or untreated lumber with minimal emissions. These facilities must be authorized by the TCEQ prior to their construction at a burn site and must have obtained a federal operating permit. Many contractors and distributors lease out these devices.

Outdoor Burning Rule Exceptions

(Exceptions listed by County)

Outdoor Burning Exceptions by County

- Texas Administrative Code (TAC), Title 30, Part 1, Chapter 111.209 (1), (2), (3), (4)(A), (6), (7)
- Texas Administrative Code (TAC), Title 30, Part 1, Chapter 111.209 (1), (2), (3), (4)(A), (5) (6), (7)
- Texas Administrative Code (TAC), Title 30, Part 1, Chapter 111.209 (1), (2), (3), (4)(B), (6), (7)
- Texas Administrative Code (TAC), Title 30, Part 1, Chapter 111.209 (1), (2), (3), (4)(B), (5), (6), (7)
- Local Government Code (LGC), 352.082
Texas Administrative Code (TAC), Title 30, Part 1, Chapter 111.209, (2), (3), (4)(A), (6), (7)



Brazoria, Fort Bend, Galveston, Harris, Liberty

- *Ozone Non-Attainment*
- *Population greater than 50,000*

Must comply with TAC 111.209 (1), (2), (3), (4)(A), (6), (7)

TAC 111.209 (1) Domestic Wastes

- Domestic wastes include waste that normally results from the function of life within a residence and include:
 - *Kitchen garbage*
 - *Untreated lumber*
 - *Cardboard boxes*
 - *Packaging (including plastics, rubber)*
 - *Clothing*
 - *Grass, leaves, branch trimmings*
- Burning of domestic waste is allowed, when collection is not provided/authorized by local government entity having jurisdiction.
- Waste can only be generated from that property.
- Waste not considered domestic waste and cannot be burned:
 - *Tires*
 - *Non-wood construction debris*
 - *Furniture*
 - *Carpet*
 - *Electrical wire*
 - *Appliances*

TAC 111.209 (2) Diseased animal carcasses when burning is the most effective means of controlling the spread of disease.

TAC 111.209(3) Veterinarians in accordance with Texas Occupations Code 801.361, Disposal of Animal Remains.

TAC 111.209 (4)(A) In an ozone non-attainment county, on-site burning of trees, brush, grass, leaves, branch trimmings, and other plant growth, by the property owner or authorized agent is allowed if:

- There is no practical alternative.

Note: Only TCEQ may determine if a practical alternative exists or not. The ozone non-attainment counties in TCEQ Region 12 will generally require a practical alternative.

Practical Alternatives to Burning

Recycling, Composting, Mechanical Chipping or Mulching, Logging, Landfills, Air Curtain Incineration (Trench burning).

- If there is no practical alternative, then:
 - *Material is only generated from that property*
 - *Generated as a result of right-of-way maintenance*
 - *Land clearing operations*
 - *Maintenance along water canals*

TAC 111.209 (6)

- Burning of crop residue for agricultural management purposes allowed when no practical alternative exists.
- Burning is subject to TAC 111.219 General requirements for allowable outdoor burning.
- Structures containing sensitive receptors, humans and livestock such as residences, barns, greenhouses or stables must not be negatively impacted by the burn.
- When possible, notification should be made to TCEQ Region 12, but TCEQ notification/approval not required.

TAC 111.209 (7)

- Brush, trees, and other plant growth causing a detrimental public health and safety condition, can be burned by a county or municipal government at a site it owns upon receiving site and burn approval from the TCEQ Executive Director.
- Such burns can only be authorized when there is no practical alternative.
- Burns may be done no more frequently than once every two months.
- Burns cannot be conducted at municipal solid waste landfills unless authorized under TAC 111.215.
- Burns are subject to TAC 111.219.

If a situation does not fit any of the exceptions for disposal fires, a burn authorization request can be submitted to the TCEQ Region 12 Air Section for a case-by-case review.

Even if you meet an exception, you are still subject to nuisance conditions under 30 TAC 104.4 and Texas Health and Safety Code 341, 343 and 382. Punishments are created under the Texas Water Code, Chapter 7.177.

Texas Health and Safety Code 382.018 provides TCEQ with the authority to authorize outdoor burning of waste.

Austin, Colorado, Matagorda, Wharton

- *Ozone Attainment*
- *Population less than 50,000*

Must comply with TAC 111.209 (1), (2), (3), (4)(B), (5), (6), (7)

TAC 111.209 (1) Domestic Wastes

- Domestic wastes include waste that normally results from the function of life within a residence and include:
 - *Kitchen garbage*
 - *Untreated lumber*
 - *Cardboard boxes*
 - *Packaging (including plastics, rubber)*
 - *Clothing*
 - *Grass, leaves, branch trimmings*
- Burning of domestic waste is allowed, when collection is not provided/authorized by local government entity having jurisdiction.
- Waste can only be generated from that property.
- Waste not considered domestic waste and cannot be burned:
 - *Tires*
 - *Non-wood construction debris*
 - *Furniture*
 - *Carpet*
 - *Electrical wire*
 - *Appliances*

TAC 111.209 (2) Diseased animal carcasses when burning is the most effective means of controlling the spread of disease.

TAC 111.209 (3) Veterinarians in accordance with Texas Occupations Code 801.361, Disposal of Animal Remains.

111.209 (4)(B) In an ozone attainment county, on-site burning of trees, brush, grass, leaves, branch trimmings, and other plant growth, by the property owner or authorized agent is allowed if:

- Material is only generated from that property.
- Generated as a result of right-of-way maintenance.
- Land clearing operations.
- Maintenance along water canals.
 - *Practical alternatives are not required, therefore commercial operations may also burn.*
 - *Can burn inside city limits, except where local city ordinances prohibit it.*

TAC 111.209 (5)

This type of burning allowed in counties with less than 50,000 population:

- Burn site designated for consolidated burning of plant growth waste generated from specific residential properties.
- Designated site must be located outside municipality
- The owner or authorized agent of designated burn site must comply with TAC 111.209 (5) (A)-(F).

TAC 111.209 (6)

- Burning of crop residue for agricultural management purposes allowed when no practical alternative exists.
- Burning is subject to TAC 111.219 General requirements for allowable outdoor burning.
- Structures containing sensitive receptors, humans and livestock such as residences, barns, greenhouses or stables must not be negatively impacted by the burn.
- When possible, notification should be made to TCEQ Region 12, but TCEQ notification/approval not required.

TAC 111.209 (7)

- Brush, trees, and other plant growth causing a detrimental public health and safety condition, can be burned by a county or municipal government at a site it owns upon receiving site and burn approval from the TCEQ Executive Director.
- Such burns can only be authorized when there is no practical alternative.
- Burns may be done no more frequently than once every two months.
- Burns cannot be conducted at municipal solid waste landfills unless authorized under TAC 111.215.
- Burns are subject to TAC 111.219.

If a situation does not fit any of the exceptions for disposal fires, a burn authorization request can be submitted to the TCEQ Region 12 Air Section for a case-by-case review.

Even if you meet an exception, you are still subject to nuisance conditions under 30 TAC 104.4 and Texas Health and Safety Code 341, 343 and 382. Punishments are created under the Texas Water Code, Chapter 7.177.

Texas Health and Safety Code 382.018 provides TCEQ with the authority to authorize outdoor burning of waste.

Montgomery

- Ozone Non-Attainment
- Population greater than 50,000

Must comply with LGC 352.082; TAC 111.209 (2), (3), (4)(A), (6), (7)

LGC 352.082

Outdoor Burning of Household Refuse in Certain Residential Areas

- Applies to the unincorporated portion of Montgomery County.
- Burning of household refuse is prohibited:
 - On a lot that is located in a neighborhood; or
 - On a lot that is smaller than 5 acres.
 - Refuse is defined in the Texas Health & Safety Code as “garbage, rubbish, paper, and other decayable and non-decayable waste, including vegetable matter and animal and fish carcasses”.
 - Neighborhood is defined in the Texas Health & Safety Code as “a platted subdivision; or property contiguous to and within 300 feet of a platted subdivision”.

- An offense under LGC 352.082 is a Class D Misdemeanor.

TAC 111.209 (2) Diseased animal carcasses when burning is the most effective means of controlling the spread of disease.

TAC 111.209 (3) Veterinarians in accordance with Texas Occupations Code 801.361, Disposal of Animal Remains.

TAC 111.209 (4)(A) In an ozone non-attainment county, on-site burning of trees, brush, grass, leaves, branch trimmings, and other plant growth, by the property owner or authorized agent is allowed if:

- There is no practical alternative.

Note: Only TCEQ may determine if a practical alternative exists or not. The ozone non-attainment counties in TCEQ Region 12 will generally require a practical alternative.

Practical Alternatives to Burning

Recycling, Composting, Mechanical Chipping or Mulching, Logging, Landfills, Air Curtain Incineration (Trench burning).

- If there is no practical alternative, then:
 - Material is only generated from that property.
 - Generated as a result of right-of-way maintenance.
 - Land clearing operations.
 - Maintenance along water canals.

TAC 111.209 (6)

- Burning of crop residue for agricultural management purposes allowed when no practical alternative exists.
- Burning is subject to TAC 111.219 General requirements for allowable outdoor burning.
- Structures containing sensitive receptors, humans and livestock such as residences, barns, greenhouses or stables must not be negatively impacted by the burn.
- When possible, notification should be made to TCEQ Region 12, but TCEQ notification/approval not required.

TAC 111.209 (7)

- Brush, trees, and other plant growth causing a detrimental public health and safety condition, can be burned by a county or municipal government at a site it owns upon receiving site and burn approval from the TCEQ Executive Director.
- Such burns can only be authorized when there is no practical alternative.
- Burns may be done no more frequently than once every two months.
- Burns cannot be conducted at municipal solid waste landfills unless authorized under TAC 111.215.
- Burns are subject to TAC 111.219.

If a situation does not fit any of the exceptions for disposal fires, a burn authorization request can be submitted to the TCEQ Region 12 Air Section for a case-by-case review.

Even if you meet an exception, you are still subject to nuisance conditions under 30 TAC 104.4 and Texas Health and Safety Code 341, 343 and 382. Punishments are created under the Texas Water Code, Chapter 7.177.

Texas Health and Safety Code 382.018 provides TCEQ with the authority to authorize outdoor burning of waste.

Walker

- Ozone Attainment
- Population greater than 50,000

Must comply with TAC 111.209 (1), (2), (3), (4)(B), (6), (7)

TAC 111.209 (1)

Domestic Wastes

- Domestic wastes include waste that normally results from the function of life within a residence and include:
 - Kitchen garbage
 - Untreated lumber
 - Cardboard boxes
 - Packaging (including plastics, rubber)
 - Clothing
 - Grass, leaves, branch trimmings
- Burning of domestic waste is allowed, when collection is not provided/authorized by local government entity having jurisdiction.
- Waste can only be generated from that property.
- Waste not considered domestic waste and cannot be burned:
 - Tires
 - Non-wood construction debris
 - Furniture
 - Carpet
 - Electrical wire
 - Appliances

TAC 111.209 (2) Diseased animal carcasses when burning is the most effective means of controlling the spread of disease.

TAC 111.209 (3) Veterinarians in accordance with Texas Occupations Code 801.361, Disposal of Animal Remains.

TAC 111.209 (4)(B) In an ozone attainment county, on-site burning of trees, brush, grass, leaves, branch trimmings, and other plant growth, by the property owner or authorized agent is allowed if:

- Material is only generated from that property.
- Generated as a result of right-of-way maintenance.
- Land clearing operations.
- Maintenance along water canals.

- Practical alternatives are not required, therefore commercial operations may also burn.
- Can burn inside city limits, except where local city ordinances prohibit it.

TAC 111.209 (6)

- Burning of crop residue for agricultural management purposes allowed when no practical alternative exists.
- Burning is subject to TAC 111.219 General requirements for allowable outdoor burning.
- Structures containing sensitive receptors, humans and livestock such as residences, barns, greenhouses or stables must not be negatively impacted by the burn.
- When possible, notification should be made to TCEQ Region 12, but TCEQ notification/approval not required.

TAC 111.209 (7)

- Brush, trees, and other plant growth causing a detrimental public health and safety condition, can be burned by a county or municipal government at a site it owns upon receiving site and burn approval from the TCEQ Executive Director.
- Such burns can only be authorized when there is no practical alternative.
- Burns may be done no more frequently than once every two months.
- Burns cannot be conducted at municipal solid waste landfills unless authorized under TAC 111.215.
- Burns are subject to TAC 111.219.

If a situation does not fit any of the exceptions for disposal fires, a burn authorization request can be submitted to the TCEQ Region 12 Air Section for a case-by-case review.

Even if you meet an exception, you are still subject to nuisance conditions under 30 TAC 104.4 and Texas Health and Safety Code 341, 343 and 382. Punishments are created under the Texas Water Code, Chapter 7.177.

Texas Health and Safety Code 382.018 provides TCEQ with the authority to authorize outdoor burning of waste.

Chambers, Waller

- Ozone Non-Attainment
- Population less than 50,000

Must comply with TAC 111.209 (1), (2), (3), (4)(A), (5), (6), (7)

TAC 111.209 (1) Domestic Wastes

- Domestic wastes include waste that normally results from the function of life within a residence and include:
 - Kitchen garbage
 - Untreated lumber
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 - Clothing
 - Grass, leaves, branch trimmings
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- Waste not considered domestic waste and cannot be burned:
 - Tires
 - Non-wood construction debris
 - Furniture
 - Carpet
 - Electrical wire
 - Appliances

TAC 111.209 (2) Diseased animal carcasses when burning is the most effective means of controlling the spread of disease.

TAC 111.209 (3) Veterinarians in accordance with Texas Occupations Code §801.361, Disposal of Animal Remains.

TAC 111.209 (4)(A) In an ozone non-attainment county, on-site burning of trees, brush, grass, leaves, branch trimmings, and other plant growth, by the property owner or authorized agent is allowed if:

- There is no practical alternative.

Note: Only TCEQ may determine if a practical alternative exists or not. The ozone non-attainment counties in TCEQ Region 12 will generally require a practical alternative.

Practical Alternatives to Burning:

Recycling, Composting, Mechanical Chipping or Mulching, Logging, Landfills, Air Curtain Incineration (Trench burning).

- If there is no practical alternative, then:
 - Material is only generated from that property.
 - Generated as a result of right-of-way maintenance.
 - Land clearing operations.
 - Maintenance along water canals.

TAC 111.209 (5) Because Chambers and Waller Counties have population less than 50,000, they meet this rule.

- Burn site designated for consolidated burning of plant growth waste generated from specific residential properties.
- Designated site must be located outside municipality.
- The owner or authorized agent of designated burn site must comply with TAC 111.209 (5) (A)-(F).

TAC 111.209 (6)

- Burning of crop residue for agricultural management purposes allowed when no practical alternative exists.
- Burning is subject to TAC 111.219 General requirements for allowable outdoor burning.
- Structures containing sensitive receptors, humans and livestock such as residences, barns, greenhouses or stables must not be negatively impacted by the burn.
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TAC 111.209 (7)

- Brush, trees, and other plant growth causing a detrimental public health and safety condition, can be burned by a county or municipal government at a site it owns upon receiving site and burn approval from the TCEQ Executive Director.
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If a situation does not fit any of the exceptions for disposal fires, a burn authorization request can be submitted to the TCEQ Region 12 Air Section for a case-by-case review.

Even if you meet an exception, you are still subject to nuisance conditions under 30 TAC 104.4 and Texas Health and Safety Code 341, 343 and 382. Punishments are created under the Texas Water Code, Chapter 7.177.

Texas Health and Safety Code 382.018 provides TCEQ with the authority to authorize outdoor burning of waste.

Houston-
Galveston
Area
Council



Texas
Commission on
Environmental
Quality

TCEQ Region 12
Outdoor Burning Requests and Questions
713-767-3714

A current copy of the rule, Outdoor Burning Rule, Title 30, Texas Administrative Code, Sections 111.201–221, can be obtained from the TCEQ by calling 512-239-0028, or online at www.tceq.state.tx.us/rules/.

