

# TCEQ Outdoor Burning Rules

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30 TAC Chapter 111  
Subchapter B  
§111.201 - §111.221

30 TAC Chapter 106  
Subchapter V  
Permit-by-Rule §106.496

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# What is Outdoor Burning?

- Outdoor Burning, or Open Burning, is the combustion of any type of material in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion.
- Exposure to elevated levels of particulate matter and combustion products alone can cause adverse health affects such as eye and respiratory irritation. Sensitive individuals such as children, individuals with respiratory (asthma, chronic obstructive pulmonary disease, or emphysema) or cardiac conditions, and pregnant women can be at risk of more significant adverse health effects.



# Definitions

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- ❏ Landclearing Operation - uprooting, cutting or clearing of vegetation for the purpose of construction of buildings, rights-of-way, or to enhance property value, access or production
- ❏ Practical Alternative - an economically, technologically, ecologically and logistically viable option
- ❏ Prescribed Burn - the controlled application of fire to naturally-occurring vegetation under specified conditions and confined to a predetermined area



# Definitions - con't.

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## Nuisance - §101.4

 No person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property. Effective May 6, 1979







# Summary of the Rule

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- ❏ Outdoor burning is prohibited in the state of Texas - §111.201
- ❏ Exceptions allowed - Authorization to burn is ONLY given by TCEQ!
- ❏ Must meet conditions when burning is allowed
- ❏ Special authorization if a situation does not fit an exception



# Exceptions to the Rule

- ☑ Applicable local governmental ordinances, regulations or orders
  - ✂ Individual county burn bans
  - ✂ Ordinances that ban burning altogether
  - ✂ Ordinances that allow burning consistent with Texas Clean Air Act (TCAA)





# Exceptions to the Rule

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☒ Firefighter Training

☒ Fires for Recreation, Ceremony, Cooking or Warmth

☒ Fires for Disposal or Landclearing

☒ Prescribed Burns

☒ Pipeline Breaks and Oil Spills

☒ Other Situations





# Exceptions to the Rule

## Firefighter Training - §111.205

- ❏ Request must be in writing to TCEQ
- ❏ Authorized if *notice of denial* from TCEQ is not received within 10 working days
- ❏ Training frequency:
  - ⊗ At least weekly - submit annual written notification
  - ⊗ Less than weekly - submit annual written notification, 24-hour advance notice
- ❏ May not cause a nuisance or traffic hazard
- ❏ General requirements for allowable outdoor burning do not apply





# General Requirements for Allowable Burning - §111.219

- ❏ Notify Texas Forest Service prior to prescribed or controlled burning for forest management
- ❏ Burning must be outside corporate limits of city/town unless incorporated city/town has burning ordinance
- ❏ Burn only when weather conditions are such that smoke and pollutants will not cause adverse affects
- ❏ Post flag person



# General Requirements for Allowable Burning - §111.219

- Distance requirement
- Burn times
- Presence of responsible party
- Proper meteorological conditions
- Prevent nuisance or traffic hazard



# General Requirements for Allowable Burning - §111.219

## Materials not allowed to be burned:

 electrical insulation

 treated lumber

 plastics

 non-wood construction/demolition materials

 heavy oils

 asphaltic materials

 potentially explosive materials

 chemical wastes

 items containing natural or synthetic rubber











# Exceptions to the Rule

## Recreation, Ceremony, Cooking and Warmth - §111.207

- ❏ Recreational or ceremonial purposes, non-commercial preparation of food, or supplying warmth
- ❏ May not cause a nuisance or traffic hazard
- ❏ General requirements for allowable outdoor burning do not apply -Exception: must comply with list of materials not allowed to be burned











# Exceptions to the Rule

## Fires for Disposal or Landclearing Six Most Common Categories

- 🗑 Domestic waste
- 🗑 Diseased animal carcasses
- 🗑 Animal remains burning by a veterinarian
- 🗑 Maintenance or landclearing
- 🗑 Crop residues
- 🗑 Brush, trees, etc., off-site





# Fires for Disposal or Landclearing

## Six Most Common Categories

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### Domestic Waste - §111.209(1)

- ❑ Household trash and rubbish
- ❑ Waste from a private residence
- ❑ Waste must be burned on property where generated
- ❑ May not cause a nuisance or traffic hazard





# Fires for Disposal or Landclearing

## Six Most Common Categories

### Diseased Animal Carcasses - §111.209(2)

- ☒ Controlling the spread of disease
- ☒ May not cause a nuisance or traffic hazard
- ☒ TCEQ Regulatory Guidance - *Disposal of Domestic or Exotic Livestock Carcasses*, RG-419, November 2004 - Exhibit A







# Fires for Disposal or Landclearing

## Six Most Common Categories

### Animal Remains Burning by a Veterinarian - §111.209(3)

- ☒ Senate Bill 216, 78th Texas Legislative Session, 2003
- ☒ Must comply with Texas Occupation Code §801.361 - *Disposal of Animal Remains* (Exhibit B):
  - ☒ May burn/bury animal remains and related medical wastes in vet's care on his/her property
  - ☒ Location of property
- ☒ TCEQ outdoor burning and nuisance rules do not apply



# Fires for Disposal or Landclearing

## Six Most Common Categories

Animal Remains Burning by a Veterinarian -  
§111.209(3)

- 30 TAC Chapter 106, Subchapter V, §106.494 -  
*Pathological Waste Incinerators* (Exhibit C)
- 30 TAC Chapter 330, Subchapter A, §330.4(y) through  
(aa) -Permit Requirements (Exhibit D)
- 30 TAC 330, Subchapter E, §330.75 - *Animal  
Crematory Facility* (Exhibit E)



# Fires for Disposal or Landclearing

## Six Most Common Categories

### On-site Maintenance or Landclearing -§111.209(4)

- On-site burning of trees, brush, plant growth for right-of-way maintenance, landclearing operations, maintenance along water canals
- General requirements for allowable outdoor burning apply
- Sensitive receptors









# Fires for Disposal or Landclearing

## Six Most Common Categories

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### Crop Residues - §111.209(5)

- 📁 Agricultural management
- 📁 General requirements for allowable outdoor burning apply
- 📁 Sensitive receptors





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# Fires for Disposal or Landclearing

## Six Most Common Categories

### Brush, Trees, etc., Off-site By County or Municipal Governments - §111.209(6)

- ❑ Local governments may request *site and burn approval* from TCEQ
- ❑ Authorized only when no practical alternative exists
- ❑ Burn must occur at a site owned by local government
- ❑ General requirements for allowable outdoor burning apply



# Exceptions to the Rule Prescribed Burns Forest, Range, etc. - §111.211(1)

- Used to manage forests, rangeland, wildland, and wildlife
- General requirements for allowable outdoor burning apply
- Sensitive receptors must not be negatively affected
- Notification to TCEQ should be made possible, but not required

when



# Exceptions to the Rule Prescribed Burns

## Coastal Salt-marsh Management -§111.211(2)

 Allowed in 14 counties:

 Aransas

Jefferson

 Brazoria

Kleberg

 Calhoun

Matagorda

 Chambers

Nueces

 Galveston

Orange

 Harris

Refugio

 Jackson

San Patricio



# Exceptions to the Rule Prescribed Burns

## Coastal Salt-marsh Management -§111.211(2)

- ❏ Register and identify land where burning will occur - must be received by TCEQ 15 days before burning takes place
- ❏ Verbal or written notification must be made prior to burning; include specific information
- ❏ General requirements for allowable outdoor burning apply











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# Exceptions to the Rule

## Hydrocarbon Burning - §111.213

- ❏ For pipeline breaks and oil spills - the event may require notification to TCEQ
- ❏ TCEQ determines whether burning is necessary to protect the public welfare
- ❏ Sampling and monitoring may be required
- ❏ General requirements for allowable outdoor burning do not apply





# Exceptions to the Rule

## Other Situations - §111.215

- ❏ Requires written approval from TCEQ
- ❏ When no practical alternative exists
- ❏ May not cause or contribute to a nuisance or traffic hazard
- ❏ May not cause or contribute to a violation of a primary or secondary NAAQS
- ❏ Authorization can be revoked



# Exceptions to the Rule

## Responsibility for Consequences of Outdoor Burning - §111.221

Burning Authorization does not exempt or excuse:

- ❏ From consequences, damages, injuries resulting from the burning, including nuisance
- ❏ From complying with all other applicable laws, ordinances, regulations and orders of governmental agencies having jurisdiction



# Practical Alternatives to Burning

*“An economically, technologically, ecologically and logistically viable option”*

- ☒ Recycling
- ☒ Composting
- ☒ Mechanical chipping or mulching
- ☒ Logging
- ☒ Landfills
- ☒ Air curtain incinerators (30 TAC Chapter 106, Subchapter V - *Thermal Control Devices*, Rule §106.496) - Exhibit F



# Air Curtain Incinerators

## CONTROLLED BURNING

### Trench Burning & Firebox Burning

*“An incinerator that operates by forcefully projecting a curtain of air across an open chamber in which combustion occurs”*

- ☐ Landclearing
- ☐ Right-of-way maintenance
- ☐ Emergency clean-up operations
- ☐ Non-commercial industrial sites
- ☐ Municipal solid waste sites





# Air Curtain Incinerators

## CONTROLLED BURNING

### Trench Burning & Firebox Burning

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§ 106.496 PBR Conditions (effective 6/30/04)

- ❏ MAJOR CHANGE - can locate permanent ACIs at landfills to burn trees, brush, clean lumber generated on-or off-site
- ❏ Require air registration and re-registration
- ❏ Emergency clean-up operations do not require registration
- ❏ ACIs at landfills also require a separate MSW authorization



# Air Curtain Incinerators

## CONTROLLED BURNING

### Trench Burning & Firebox Burning

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#### §106.496 PBR Conditions - con't.

- ☐ Distance requirements - minimum 300 feet
- ☐ Portable facility - 180 consecutive days or 600 hours
- ☐ Permanent facility - 600 hours in any rolling 12-month period
  - ✂ May process materials for municipal solid waste or non-commercial industrial sites only
- ☐ ACI must be equipped with a run-time meter



# Air Curtain Incinerators

## CONTROLLED BURNING

### Trench Burning & Firebox Burning

#### §106.496 PBR Conditions - con't.

- ☐ Presence of operator
- ☐ Burn times
- ☐ Material stacking
- ☐ Visible Emissions
- ☐ Ash disposal
  - ☒ Buried on-site - must deed-record
  - ☒ Sent to a Type I landfill
  - ☒ Beneficial usage, if approved





# Air Curtain Incinerators

## CONTROLLED BURNING

### Trench Burning & Firebox Burning

#### §106.496 PBR Conditions - con't.

- 📁 Maintain records to demonstrate compliance
- 📁 Not exempt from:
  - 🔗 Local regulations, requirements, authorizations
  - 🔗 Other state air regulations
  - 🔗 Any state water authorizations
- 📁 Copy of PBR and operating instructions must be kept at burn site and made available upon request



# Air Curtain Incinerators CONTROLLED BURNING Trench Burning

*“An ACI operation using a trench and air manifold system”*

- ❏ Trench (below-ground ACIs) at landfill must be located in undisturbed soil
- ❏ Trench dimensions: 12' W x 35' L x 10' D
- ❏ Ash may be buried in trench - must be deed-recorded

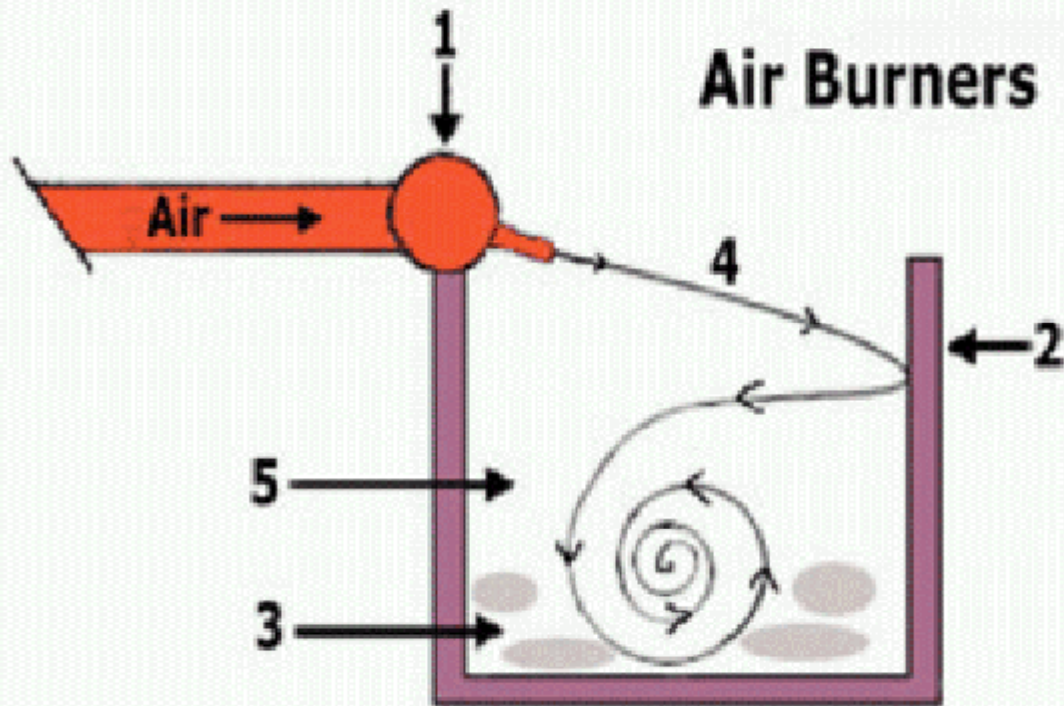




T-400 Trench Burner and Pit Construction (Minnesota)



## Air Burners







# Air Curtain Incinerators

## CONTROLLED BURNING

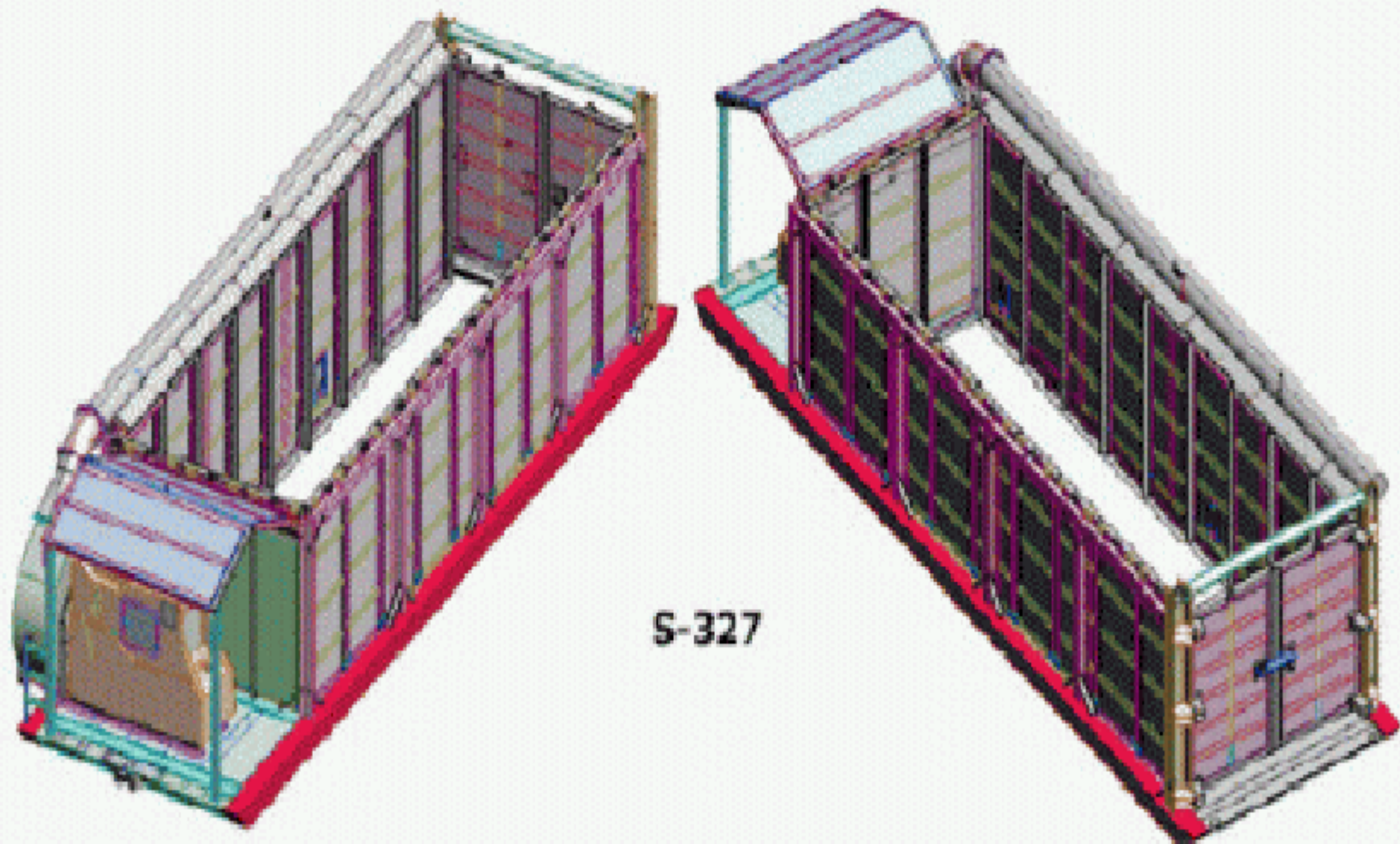
### Firebox Burning

*“An ACI operation using a manufactured above-ground container and blower system”*

☒ Facilities equipped with refractory walls and above-fire air supply -750 hours operation in any rolling 12-month period

☒ Firebox dimensions: 8' W x 35' L x 6' D  
(interior)





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# What Do You Do Now?

- ☐ Receive a complaint
- ☐ Investigate and collect evidence
- ☐ Determine if rules have been violated
- ☐ Document evidence the way you normally would
- ☐ Handle like any other violation



# What Gives You the Authority?

## Texas Water Code

### Chapter 7 - Enforcement

### § 7.1777 - Violations of Clean Air Act

#### (a) Elements

(1) A Person


(2) intentionally or knowingly, with respect to conduct, violates:

(3) an order, permit, or exemption issued or a rule adopted under Chapter 382, Health & Safety Code



# What Gives You the Authority?

 Texas Health & Safety Code

 Chapter 382 - Clean Air Act

§382.002 - Policy and Purpose

(b) It is intended that this chapter be vigorously enforced and that violations of this chapter or any rule or order of the Texas Commission on Environmental Quality result in expeditious initiation of enforcement actions as provided by this chapter



# What Gives You the Authority?

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- ☐ Texas Commission on Environmental Quality Regulations
- ☒ Title 30 - Texas Administrative Code

