

REGULATION II

CONTROL OF AIR POLLUTION FROM OUTDOOR BURNING

I. Purpose

It is the purpose of this Regulation to establish controls on the outdoor burning of waste or other combustible material to prevent undesirable levels of air contaminants in the atmosphere.

II. Definitions

- A. The section on definitions in the General Provisions of the Board's Regulations applies to this Regulation. The additional terms defined in this section have the meanings given them herein when used in this Regulation.
- B. "Garbage". Animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.
- C. "Outdoor Burning". Any fire or smoke-producing process which is not conducted in a combustion unit, as defined in the General Provisions, or in a motor or engine used in propelling land, water or air vehicles, including domestic fires and burning at private residences or dwellings.
- D. "Rubbish". Solid wastes from residences and dwellings, commercial establishments, and institutions.

III. The outdoor burning of waste material or other combustible material is prohibited except as provided in Paragraph IV.

IV. Exceptions to Prohibition Against Outdoor Burning

Outdoor burning of waste material or other combustible material may be conducted in the situations enumerated below if no public nuisance is or will be created and if the burning is not prohibited by and is conducted in compliance with other applicable laws and with ordinances, regulations and orders of governmental entities having jurisdiction, including air control ordinances, regulations and orders. The authority to conduct outdoor burning under this Regulation does not exempt

or excuse the person responsible from the consequences of or the damages or injuries resulting from the burning and does not exempt or excuse anyone from complying with other applicable laws and with ordinances, regulations, and orders of governmental entities having jurisdiction, even though the burning is otherwise conducted in compliance with this Regulation.

The Board reserves the right to impose other or different restrictions on outdoor burning in addition to those enumerated below whenever in the judgment of the Board this is necessary to realize the purpose of this Regulation.

- A. Domestic fires at a property designed for and used exclusively as a private residence housing not more than three families, and outdoor burning at such a property of domestic waste material from that property.
- B. Outdoor burning in connection with the preparation of food.
- C. Campfires and fires used solely for recreational purposes or for ceremonial occasions.
- D. Fires purposely set to forest lands for a specific forest management purpose in accordance with practices acceptable to the Texas Forest Service.
- E. Fires purposely set to marsh grasses for range management purposes in accordance with practices acceptable to the Texas Department of Agriculture.
- F. Outdoor burning in a Type D land use area or in a rural park or rural recreation area of trees, brush, grass and other vegetable matter for game management purposes in accordance with practices acceptable to the Texas Parks and Wildlife Department.
- G. Outdoor burning in a Type D land use area or in a rural park or rural recreation area of trees, brush, grass and other vegetable matter from such area in land clearing and right-of-way maintenance operations if the following conditions are met:
 1. Prevailing winds at the time of the burning must be away from any city or town, the ambient air of which may be affected by smoke from the burning;
 2. The location of the burning must be at least one thousand (1,000) feet from any Type A, B or C land use area other than a Type A, B or C land use area located on the property on which the burning is conducted;

3. Care must be used to minimize the amount of dirt on the material being burned;
 4. Heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any materials other than plant growth which produce unreasonable amounts of smoke may not be burned;
 5. The initial burning may be commenced only between the hours of 9:00 a.m. and 4:00 p.m.; no combustible material may be added to the fire between 4:00 p.m. of one day and 9:00 a.m. the following day; and
 6. The burning must be controlled so that a traffic hazard as proscribed by Section V is not created.
- H. Outdoor burning in a Type C or Type D land use area or in a park or recreation area of trees, brush, grass and other vegetable matter from such area in railroad right-of-way maintenance operations when the purpose is to eliminate a fire hazard, if the following conditions are met:
1. Care must be used to minimize the amount of dirt on the material being burned;
 2. Heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any materials other than vegetable matter which produce unreasonable amounts of smoke may not be burned;
 3. The initial burning may be commenced only between the hours of 9:00 a.m. and 4:00 p.m.; no combustible material may be added to the fire between 4:00 p.m. of one day and 9:00 a.m. the following day; and
 4. The burning must be controlled so that a traffic hazard as proscribed by Section V is not created.
- I. Fires purposely set for purposes of training public fire-fighting personnel when authorized by the appropriate governmental entity.
- J. Fires purposely set by a private industry as a part of an organized program of drills for the training of industrial fire-fighting personnel if the following conditions are met:

1. The drills must be solely for the purpose of fire-fighting training, with the use of fuel of all kinds and the duration of the burning held to the minimum required for such purpose;
2. The initial burning may be commenced only between the hours of 9:00 a.m. and 4:00 p.m.; no additional combustible material may be added to the fire between 4:00 p.m. of one day and 9:00 a.m. the following day; and
3. The burning must be controlled so that a traffic hazard as proscribed by Section V is not created.

K. Outdoor burning of the garbage and rubbish of a city or town having a population of less than five thousand (5,000) and the outdoor burning of waste material at locations serving rural and unincorporated areas, if the following conditions are met:

1. The location of the burning must be outside a defined Standard Metropolitan Statistical Area;
2. The location of the burning must be at least one thousand (1000) feet from any Type A, B or C land use area other than a Type A, B, or C land use area located on the property on which the burning is conducted.
3. The location of the burning must not be within or adjacent to a city or town (other than the city or town which is the source of the waste material), or in such proximity thereto that the ambient air of the city or town may be affected by smoke from the burning;
4. The initial burning may be commenced only between the hours of 9:00 a.m. and 4:00 p.m.; no combustible material may be added to the fire between 4:00 p.m. of one day and 9:00 a.m. of the following day; and
5. The burning must be controlled so that a traffic hazard as proscribed by Section V is not created.

L. Outdoor burning at the site where it occurs of

- (a) waste hydrocarbon products from petroleum

exploration, development, or production operations (such as basic sediments, oil produced in testing an oil well, paraffin, etc.) where it is not practicable because of the isolated location of the site to transport the waste products for sale or reclamation, or to dispose of them lawfully in some other manner; and

- (b) hydrocarbons spilled or lost from pipeline breaks or other transport failure which cannot practicably be recovered or be disposed of lawfully in some other manner;

when the burning is reasonably necessary to eliminate or abate an existing or imminent threat of injury to human life or significant damage to property. In the absence of such a threat, the outdoor burning may be conducted only if the following conditions are met:

1. The location of the burning must not be within or adjacent to a city or town, or in such proximity thereto that the ambient air of the city or town may be affected by smoke from the burning;
 2. The initial burning may be commenced only between the hours of 9:00 a.m. and 4:00 p.m.; no combustible material may be added to the fire between 4:00 p.m. of one day and 9:00 a.m. of the following day; and
 3. The burning must be controlled so that a traffic hazard as proscribed by Section V is not created.
- M. Outdoor burning on the property where it occurs of waste material from building and construction operations if the following conditions are met:
1. The location of the burning must be at least one hundred (100) feet from any Type A, B or C land use area other than a Type A, B or C land use area located on the property on which the burning is conducted;
 2. Heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any other materials which produce unreasonable amounts of smoke may not be burned;

3. The initial burning may be commenced only between the hours of 9:00 a.m. and 4:00 p.m.; no combustible material may be added to the fire between 4:00 p.m. of one day and 9:00 a.m. the following day; and
4. The burning must be controlled so that a traffic hazard as proscribed by Section V is not created.

N. Outdoor burning of waste materials for which there is no other practical and lawful method of disposal, for testing and research purposes, or for other lawful purposes, if the Board, or the Executive Secretary acting under guidelines established by the Board, has given prior approval in writing.

V. Traffic Hazards Prohibited

The emission of smoke, suspended particulate matter or uncombined water which passes onto or across a public road and creates a traffic hazard by impairment of visibility or intensifies an existing traffic hazard condition is prohibited. For purposes of this provision, a traffic hazard resulting from impairment of visibility exists whenever horizontal visibility at or near ground level is reduced to 2400 feet or less in rural areas or to 1100 feet or less in urban areas, as specified in the American Association of Highway Officials "Policy of Geometric Design of Rural Highways" 1966.

VI. Control of Pyrophoric Materials

The disposal or deposit outdoors or in the open air of waste material or other material capable of igniting spontaneously in air is prohibited, except where the disposal or deposit is made in pursuance of a specific grant of authority to burn under Section IV.

VII. Exclusion from Application of this Regulation

Outdoor burning conducted pursuant to and in compliance with the terms of a variance granted by the Board is excluded from the application of this Regulation.

VIII. The provisions on multiple air contaminant properties, Paragraph V.B. of the General Provisions, do not apply to this Regulation.

IX. Effective Date and Time for Compliance

A. This Regulation is effective January 3, 1968

Every person, as such term is defined in the Clean Air Act of Texas, who can comply with this Regulation from and after its effective date without providing new or additional equipment or facilities shall so comply.

- B. Where new, additional or modified equipment or facilities must be provided before a person can comply with this Regulation, he shall have until July 1, 1968, to be in compliance. If a person cannot be in compliance by July 1, 1968, he shall file a petition for variance not later than May 1, 1968.
- C. Outdoor burning of the waste material of a city or town having a population of five thousand (5,000) or more, or an outdoor burning activity falling within the classification of Paragraph IV.K. which cannot comply with the conditions prescribed therein, may be continued either until there is a satisfactory and lawful method of disposing of the waste material in compliance with this Regulation or until July 1, 1969, whichever first occurs.¹
- D. No person may conduct or cause, suffer, allow or permit to be conducted outdoor burning of waste material or other combustible material, except as provided in this Regulation.

¹For disposal of wastes other than by burning, reference is made to "Rules and Standards Regulating the Disposal of Refuse, Garbage, Rubbish or Junk", promulgated December 8-9, 1963, by the Texas State Department of Health, as subsequently revised.