

Issued in Austin, Texas, on March 29, 1995

TRD-9503952

Lydia Gonzalez-Gromatzky
Acting Director, Legal
Services
Texas Natural Resource
Conservation
Commission

Effective date April 21, 1995

Proposal publication date December 13,
1994

For further information, please call (512)
239-1966

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Chapter 111. Control of Air
Pollution From Visible
Emissions and Particulate
Matter

Outdoor Burning
• 30 TAC §111.103

The Texas Natural Resource Conservation Commission (TNRCC or Commission) adopts an amendment to §111 103, concerning Exceptions to Prohibitions of Outdoor Burning, without changes to the proposed text as published in the December 13, 1994, issue of the *Texas Register* (19 TexReg 9834)

Subsection (b)(8) is deleted because the municipal solid waste provisions contained in subsection (b) have been superseded by the federal Resource Conservation and Recovery Act.

A public hearing was held on January 12, 1995, in Austin. Two commenters submitted testimony supporting the revision to §111 103. An individual supported the removal of the exception that previously allowed the burning of municipal solid waste. In addition, the individual supported the elimination of the exception for burning brush and demolition or construction wood waste at landfill sites. Browning-Ferris Industries (BFI) supported the deletion of §111 103(b)(8), but also encouraged the Commission to revise 30 TAC §330 5(d), concerning Pre-Application Review, to prohibit the burning of solid waste at landfills.

BFI recommended that existing §330 5(d) be revised to provide that "the open burning of solid waste is prohibited at any municipal solid waste landfill. The operation of any type of air-curtain destructor (trench burner) is prohibited."

The TNRCC Office of Policy and Regulatory Development, Air Policy and Regulations Division, acknowledges BFI's recommendation. However, the TNRCC was not proposing a change to §330 5(d), and thus the section was not open to change or comment. Copies of the BFI letter have been forwarded to the Office of Policy and Regulatory Development, Waste Policy and Regulations Division and also to the Office of Waste Management, Municipal Solid Waste Division, for consideration in future rulemaking projects.

The amendment is adopted under the Texas Health and Safety Code, Texas Clean Air Act

(TCAA), §382 017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority

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Chapter 345. Advisory
Committee Rules

• 30 TAC §§345.1-345.14

The Texas Natural Resource Conservation Commission (TNRCC or Commission) adopts new §§345 1-345 14, concerning Advisory Committee Rules Sections 345. 3, 345.5, 345 10, and 345 11 are adopted with changes to the proposed text as published in the January 17, 1995, issue of the *Texas Register* (20 TexReg 279). Sections 345 1, 345 2, 345.4, 345 6-345.9, 345 12, 345 13 and 345 14 are adopted without changes and will not be republished

The new §§345 1-345 14 implement the requirements of Texas Civil Statutes, Article 6252-33 relating to the existence, composition, and expenses of state agency advisory committees. These sections include provisions relating to the creation, duration, purposes, and duties of advisory committees. These rules also cover purposes; definitions; composition; and membership terms, membership; attendance, reimbursement, presiding officers; manner of reporting; subcommittees; meetings; and records.

The new §345.1, concerning Purpose, establishes the purpose of the following sections which provide procedures for advisory committees created to advise the Texas Natural Resource Conservation Commission.

The new §345.2, concerning Definitions, defines the meaning of an advisory committee.

The new §345.3, concerning Creation and Duration of Advisory Committees, requires that advisory committees be created through resolution of the Commission and the associated date of abolishment be the fourth anniversary of the creation date unless it has specific duration prescribed by statute or Commission resolution. The Commission has the ability to extend the existence of an advisory committee through an affirmative vote.

The new §345 4, concerning Purposes and Duties of Advisory Committees, describes the purpose of advisory committees which is to

advise the Commission with matters within its jurisdiction; establishes that the specific purposes of an advisory committee shall be identified by resolution of the Commission; precludes the advisory committees from any executive or administrative powers with respect to Commission operations; and establishes the duty of the advisory committees which is to advise the Commission.

The new §345.5, concerning Composition of Advisory Committees, incorporates the requirements of Texas Civil Statutes, Article 6252-33

The new §345.6, concerning Membership Terms, provides membership terms of two or four years as resolved by the Commission; and establishes a system of staggering initial terms if it is resolved that advisory committee members shall serve four years.

The new §345.7, concerning Membership, provides that all members of advisory committees, unless otherwise provided by law, are appointed by the Commission; and provides a replacement mechanism if an advisory committee member resigns, dies, becomes incapacitated, is removed, or otherwise vacates his or her position

The new §345.8, concerning Attendance, requires that should advisory committee members miss more than three consecutively scheduled meetings or more than half of all regularly scheduled meetings in one-year period they will automatically vacate his or her position.

The new §345.9, concerning Reimbursement, denies reimbursement to advisory committee members unless resolved by the Commission authorizing reimbursement.

The new §345.10, concerning Presiding Officer, requires the advisory committee to elect from its membership a presiding officer(s) unless this position(s) has been appointed by the Commission or is established by statute.

The new §345.11, concerning Manner of Reporting, requires the advisory committees to report to the Commission annually and establishes reporting criteria that allow the Commission to evaluate the committee.

The new §345.12, concerning Subcommittees, allows the advisory committees to organize into subcommittees which include non-advisory committee members and requires the inclusion of at least one advisory committee member on each subcommittee.

The new §345.13, concerning Meetings, requires the advisory committees to meet at the call of the presiding officer or the Commission and that all advisory committee meetings and subcommittee meetings be open to the public.

The new §345.14, concerning Records, requires Commission staff to record and maintain minutes of each advisory committee and subcommittee meetings.

A public hearing was held on February 16, 1995 in Austin. The comment period closed on February 17, 1995.

Two commenters submitted written testimony on the proposal. The law firm of Henry, Lowerre, Johnson, Hess, & Frederick gener-