

Prescribed Fire Explained

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TEXAS A&M FOREST SERVICE



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Native Prairie Restoration at Caddo Mounds State Historic Site



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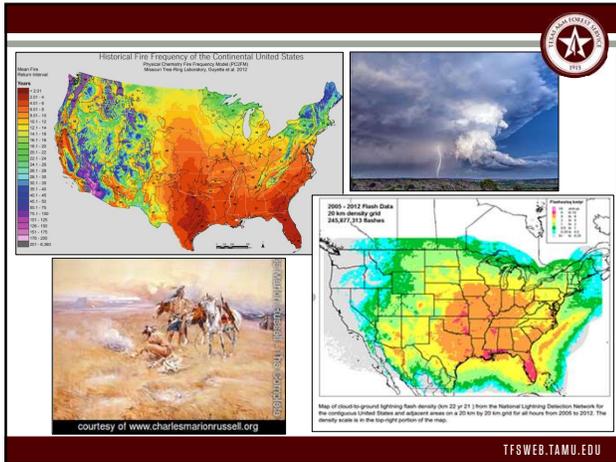



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2021-2022 FIRE SEASON

9,291 WILDFIRES BURNED 632,005 ACRES

North 207 Fire North of Amarillo 12/15/21 Eastland Complex 03/17/22 Das Goat Fire west of San Antonio 03/15/22

Mesquite Heat Fire southwest of Abilene 05/17/22 Nelson Creek Fire Near Huntsville 07/19/22 Chalk Mountain Fire Near Granbury 07/19/22

TEXAS A&M FOREST SERVICE

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Prescribed Fire Regulations in Texas

- TCEQ – Outdoor Burning Rule
 - Chapter 111- Control of Air Emissions, Subchapter 111.201-221- Outdoor Burning
 - Allows anyone in Texas to legally burn. Sets regulations on Prescribed Burning.
- County Burn Ban Law
 - Local Government Code Title 11B Ch352, Sec. 352.081- Reg. of Outdoor Burning
- Texas Dept. of Ag.- Prescribed Burn Board
 - Texas Natural Resource Code 153- Prescribed Burning
 - Texas Administrative Code Title 4, Part 13- Prescribed Burn Board
 - Regulates Certified & Insured Prescribed Burn Managers (CIPBMs)
 - CIPBMs and their insurance carry all the liability for the prescribed burn
- Local Ordinances

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TCEQ

- Outdoor Burning Rule
 - Title 30, Texas Administrative Code
 - Subchapters: 111.201 – 111.221
 - Changes made in 2017

TDA Burn Board

- TX Nat. Res. Code 153 (changes 2019 & 2021)
- Texas Admin. Code Title 4, Part 13 (multiple changes)



Texas Commission on Environmental Quality
Chapter 111 - Control of Air Emissions from Visible Emissions and Particulate Matter Page 3

SUBCHAPTER B: OUTDOOR BURNING
§§111.201, 111.203, 111.205, 111.207, 111.209, 111.211, 111.213, 111.215, 111.217, 111.219, 111.221
Effective August 3, 2017

§111.201. General Prohibition.
No person may smoke, 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.
Adopted August 21, 1996 Effective September 10, 1996

§111.203. Definitions.
Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the Texas Commission on Environmental Quality (commission), the terms used by the commission have the meanings commonly understood to those in the field of air pollution control. In addition to the terms (and see defined by the TCAA, the following terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:
(1) **Certified and Insured Prescribed Burn Manager**—a person with ultimate authority and responsibility for a prescribed burn, who has been certified by the Prescribed Burning Board of the Texas Department of Agriculture. The certification issued by the Prescribed Burning Board must be considered effective and to have met the certification requirements found in §111.204 Chapter 204 creating the requirements for Certification by the Board; at the time the prescribed burn is conducted;
(2) **Extinguished**—The absence of any visible flames, glowing coals, or smoke.
(3) **Landclearing operation**—The uprooting, cutting, or clearing of vegetation in connection with permission for the construction of buildings, rights-of-way, roads, bridges, canals, 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

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Recent Changes to Laws

2019 H.B. 2053: Removed liability from anyone else other than the landowner and burn boss IF:

- Burn plan meets TDA CIPBM standard (8 elements)
- Landowner or burn boss signed the burn plan
- Additional signed contract acknowledging liability

2021 H.B. 222: Reduces liability exposure of a non-CIPBM burn boss if they meet CIPBM program standards

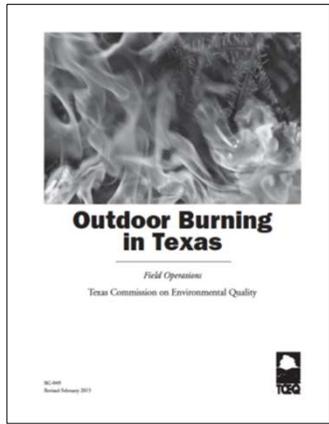
2021 H.B. 2004: Defines that a CIPBM is only liable for smoke impacts that occur within 300 ft of their burn unit. Also says a state agency may not take disciplinary action against a CIPBM on the basis the burn resulted in emissions or a nuisance.



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Many documents available online have **NOT** been edited to reflect rule revisions.



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Always Reference the up-to-date government code.



- TCEQ – Outdoor Burning Rule
 - Chapter 111- Control of Air Emissions, Subchapter 111.201-221- Outdoor Burning
- County Burn Ban Law
 - Local Government Code Title 11B Ch352, Sec. 352.081- Reg. of Outdoor Burning
- Texas Dept. of Ag.- Prescribed Burn Board
 - Texas Natural Resource Code 153- Prescribed Burning
 - Texas Administrative Code Title 4, Part 13- Prescribed Burn Board
- Local Ordinances

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County Burn Ban Law



Local Government Code Title 11B Ch352, Sec. 352.081- Reg. of Outdoor Burning

- Burn Bans are issued by County Commissioners Court:
 1. if drought conditions exist (can be assisted Texas A&M Forest Service with drought measurements) OR
 2. “the commissioners court makes a finding that circumstances present in all or part of the unincorporated area create a public safety hazard that would be exacerbated by outdoor burning.”
- May not exceed 90 days unless they are extended

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County Burn Ban Law

**Local Government Code Title 11B Ch352,
Sec. 352.081- Reg. of Outdoor Burning**

– **Burn Bans do not apply to:**

1. Firefighter training (if authorized by TCEQ)
2. Public utility, natural gas pipeline, or mining (if authorized TCEQ)
3. Planting or harvesting of agriculture crops (if authorized by TCEQ)
4. **Burns conducted by TDA Certified & Insured Prescribed Burn Managers within Nat. Res. Code 153 standards**

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Natural Resource Code 153.047 & .048 – Texas Admin. Code Title 4 Part 13 Rule 228.4

Requirements of a CIPBM during a Burn Ban (as of 2.20.23)

- a) Must adhere to all TCEQ & TDA CIPBM rules
- b) “The certified and insured prescribed burn manager must provide written notification to the county commissioners court and the county judge, or designee, prior to the prescribed burn including the following:
 - (1) the location where the prescribed burn is to take place;
 - (2) the name of the certified and insured prescribed burn manager; and
 - (3) contact information for the certified and insured prescribed burn manager, including, but not limited to: address and emergency contact telephone numbers.”

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Additional Requirements of CIPBMs During a Burn Ban

(Texas Admin. Code Title 4 Part 13 Rule 228.4)

Must notify prior to and after the burn:

5. County sheriff’s office
6. TCEQ regional office
7. TFS central dispatch office
8. fire suppression entities serving the area located immediately within the jurisdiction where the burn is located; and
9. Local emergency response dispatch office

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Summary

- Legally landowners can burn on their property in Texas. (There is no permit)
- In Texas, simple negligence is the measure of liability for prescribed burners.
- TDA Prescribed Burn Manager Certification gives the landowner legal protection, caps the CIPBMs financial liability, and sets gross negligence standard for smoke after 300 ft.



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What does this all mean?

- There are different rules and liability protections depending on training, certification, and insurance.
- Categories (not all specifically defined in law)
 - Government Employees with NWCG RXB2 qualification
 - Federal system of training and experience (Sovereign Immunity)
 - TDA Certified and Insured Prescribed Burn Manager
 - Burn manager and his insurance company is the only one liable
 - Non-Certified but meet the training, experience and have insurance.
 - Limited Liability
 - Non-certified but using a burn plan
 - Unlimited liability (simple negligence) on burner, volunteers are not liable
 - General public conducting a burn.
 - (Unlimited Liability- simple negligence)



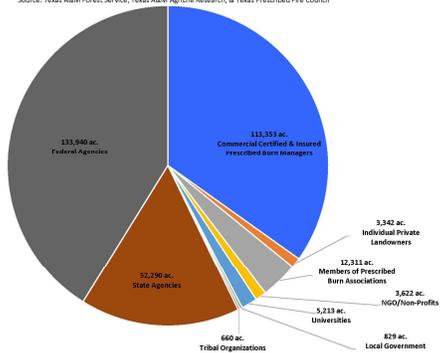
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Survey of Prescribed Fire in Texas

Total of 325,560 acres treated with prescribed fire on forests and rangelands in Texas in 2019.

Source: Texas A&M Forest Service, Texas A&M AgriLife Research, & Texas Prescribed Fire Council

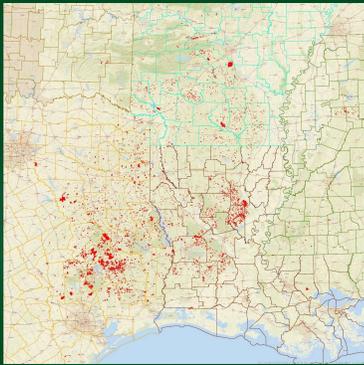


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Acorn Forestry
 - Incorporated 1999
 - Approximately 55 hourly employees
 - 7 Degreed Foresters
 - 1 Engineer
 - 4 Degreed Business Professionals

In the last 10 Years
 - Performed forestry activities on 1.53 million acres
 - Prescribe burned more than 600,000 acres in 6 states

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**Texas Department of Agriculture
 Prescribed Burn Board (PBB)**

- ▶ The board is composed of representatives from universities, governmental agencies and private landowners
- ▶ The board retains rule making authority as well as disciplinary responsibility for CIPBM's
- ▶ The PBB certifies the following CIPBM categories:
 - Commercial
 - Private
 - Not-for-Profit
 - Governmental

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What is a CIPBM?

- ▶ An individual with ultimate authority and responsibility when conducting a prescribed burn
- ▶ An individual who has met minimum standards for training, experience and continuing education
- ▶ An individual who maintains the appropriate insurance
- ▶ An individual who continually works in a safe and professional manner

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CIPBM- Minimum Standards

- ▶ Successfully complete a TDA approved CIPBM course
- ▶ Have participated in prescribed burning activities for a minimum of 3 years
- ▶ Have participated on 30 prescribed burns in any position
- ▶ Has acted as the burn boss for a minimum of 5 burns
- ▶ Covered by \$1 million (\$2 million aggregate) GL insurance policy
- ▶ Successfully complete an application and be reviewed by the burn board as a whole

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What do CIPBM's do?

- ▶ Designs a safe and effective burn strategy that will:
 - will confine the burn to a predetermined area
 - will minimize the effects of smoke
 - will reasonably accomplish the land management objectives
- ▶ Taking into account:
 - weather patterns
 - fuel loading
 - ignition patterns
 - manpower requirements
 - equipment requirements
 - contingency plans
- ▶ Execute the burn to meet the desired results
- ▶ Removes the liability for the burn from the landowner, volunteers, and anyone else involved.

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What benefits do CIPBM's provide landowners ?

- ▶ Based on legislative statute the liability of the burn and smoke will be removed from the landowner and placed on the CIPBM
- ▶ Bears responsibility for meeting air quality standards
- ▶ Bears responsibility for notification to
 - Sheriff's dispatch
 - Texas Forest Service
 - Local VFD's (if appropriate)
 - Adjacent landowners (if appropriate)
 - TCEQ (if appropriate)
- ▶ Bears responsibility for providing a reasonable expectation of safety and control and most importantly knowing when not to burn

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Indications to Not Burn

- ▶ Wind speeds in excess of 20 mph
- ▶ Relative humidities below 20%
- ▶ Keetch-Byram Drought Index (KBDI) in excess of 700
- ▶ Energy Release Components (ERC) in excess of 90%
- ▶ Probability of ignition in excess of 70%

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PRESCRIBED FIRE AND WILDFIRE RISK MITIGATION IN THE WUI



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NATIONAL FOREST AND GRASSLANDS IN TEXAS
675,815 ACRES

<p>Angelina National Forest Established in 1934 Counties: Angelina, Jasper, Nacogdoches, San Augustine Acres: 153,334</p>	<p>Davy Crockett National Forest Established 1934 Counties: Houston and Trinity Acres: 160,467</p>
<p>Sabine National Forest Established 1934 Counties: Sabine, San Augustine, Shelby Acres: 160,798</p>	<p>Sam Houston National Forest Established 1934 Counties: Montgomery, San Jacinto, and Walker Acres: 163,030</p>

Caddo and Lyndon B. Johnson National Grasslands
 Established in 1935 and 1937
 Counties: Fannin, Montague, and Wise
 Acres: 38,186

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USFS PRESCRIBED FIRE: 2021

2021 RX FIRE ACRES:	150,533
NUMBER OF RX BURNS:	83
BURN UNIT AVERAGE ACRES:	1813

Helicopter Ignition Acres:	142,159
UAS Aerial Ignition Acres:	5619
Hand Ignition Acres:	2755

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USFS PRESCRIBED FIRE 2022

2022 RX FIRE ACRES:	148,726
NUMBER OF RX BURNS:	117
BURN UNIT AVERAGE ACRES:	1271

Helicopter Ignition Acres:	113,589
UAS Aerial Ignition Acres:	15,254
Hand Ignition Acres:	18,883

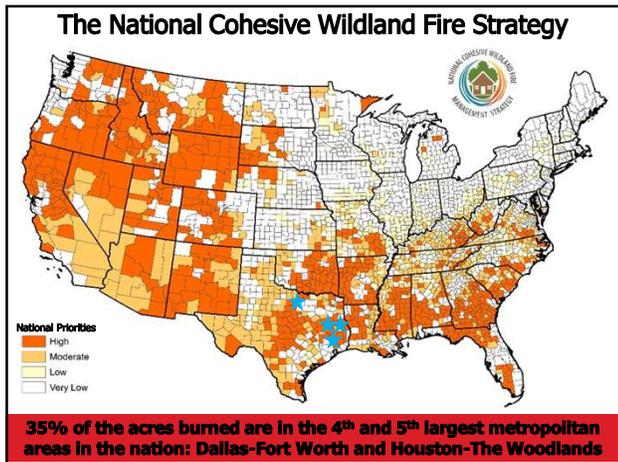
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USFS PRESCRIBED FIRE 2023 YTD

2023 ACCOMPLISHED ACRES: 41,383
 NUMBER OF RX BURNS: 37
 BURN UNIT AVERAGE ACRES: 1118

Helicopter Ignition Acres: 22,000
 UAS Aerial Ignition Acres: 11,500
 Hand Ignition Acres: 7883

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USFS WILDFIRES 2021 – 2022

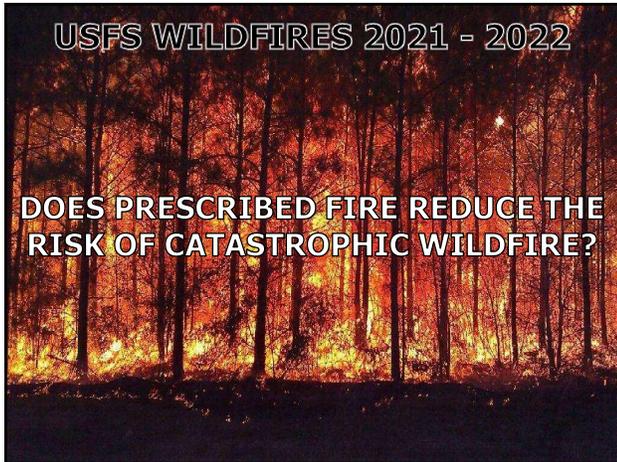
2021 WILDFIRES ON USFS LANDS

Lightning:	1	Acres:	1
Human Caused:	27	Acres:	1201
Total Number:	28	Acres:	1202
AVERAGE SIZE:	43 ACRES		

2022 WILDFIRES ON USFS LANDS

Lightning:	20	Acres:	835
Human Caused:	69	Acres:	1263
Total Number:	89	Acres:	2098
AVERAGE SIZE:	23 ACRES		

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