

Figure: 4 TAC §4.2

Schedule of Violations

Source Law	Violation	Type of Violation	Penalty	Enhancement
§§ 153.046(5), 153.047(5), 153.048(b)(4), and 153.082 of the Texas Natural Resources Code and 4. T.A.C. §227.1	<p>Failure to maintain insurance. (Initial Violation)</p> <p>This violation includes the following conduct:</p> <ul style="list-style-type: none"> -- misrepresenting the status of insurance, for example, not correctly reporting a policy change or modification on the annual insurance verification form -- failure to verify insurance annually -- allowing insurance to lapse 	Administrative	Initial violation: \$1,000 fine.	<p>1. Initial violation with harm to the public or third parties: \$1,000 to \$2,500.</p> <p>2. If a Certified and Insured Prescribed Burn Manager (“CIPBM”) engages in false or misleading conduct when reporting or verifying insurance to the department, the department may impose enhanced administrative penalty(ies), up to and including the maximum fine of \$5,000, temporary suspension of certification, and/or permanent revocation of certification, based on the factors set forth in Section 153.102 of the Texas Natural Resources Code.</p>
§§ 153.046(5), 153.047(5), 153.048(b)(4), and 153.082 of the Texas Natural Resources Code and 4. T.A.C. §227.1	<p>Failure to maintain insurance. (Second Violation)</p> <p>This violation includes the following conduct:</p> <ul style="list-style-type: none"> -- misrepresenting the status of insurance, for example, not correctly reporting a policy change or modification on the annual insurance verification form -- failure to verify insurance annually -- allowing insurance to lapse 	Administrative	Second violation within three years: \$2,000 fine.	<p>1. Second violation with harm to the public or third parties: fine of \$2,500 to \$3,000.</p> <p>2. If a CIPBM engages in false or misleading conduct when reporting or verifying insurance to the department, the department may impose enhanced administrative penalty(ies), up to and including the maximum fine of \$5,000, temporary suspension of certification, and/or permanent revocation of certification, based on the factors set forth in Section 153.102 of the Texas Natural Resources Code.</p>
§§ 153.046(5), 153.047(5), 153.048(b)(4), and 153.082 of the Texas Natural Resources Code and 4. T.A.C. §227.1	<p>Failure to maintain insurance. (Third Violation)</p> <p>This violation includes the following conduct:</p> <ul style="list-style-type: none"> -- misrepresenting the status of insurance, for 	Administrative	Third violation within three years: \$3,000 fine.	<p>1. Third violation with harm to the public or third parties: fine of \$3,000 to \$5,000.</p> <p>2. If a CIPBM engages in false or misleading conduct when reporting or verifying insurance to the department, the department may impose</p>

	example, not correctly reporting a policy change or modification on the annual insurance verification form -- failure to verify insurance annually -- allowing insurance to lapse			enhanced administrative penalty(ies), up to and including the maximum fine of \$5,000, temporary suspension of certification, and/or permanent revocation of certification, based on the factors set forth in Section 153.102 of the Texas Natural Resources Code.
§§ 153.046(5), 153.047(5), 153.048(b)(4), and 153.082 of the Texas Natural Resources Code and 4. T.A.C. §228.2(a)(2)(A)	Failure to provide proof of current insurance coverage to the landowner or landowner's agent prior to conducting a burn. (Initial violation)	Administrative	Initial violation: \$250 fine.	1. Initial violation with harm to the public or third parties: \$300 to \$500. 2. If a CIPBM engages in false or misleading conduct when providing proof of coverage to a landowner or landowner's agent, the department may impose enhanced administrative penalty(ies), up to and including the maximum fine of \$5,000, temporary suspension of certification, and/or permanent revocation of certification, based on the factors set forth in Section 153.102 of the Texas Natural Resources Code.

§153.082 of the Texas Natural Resources Code and 4. T.A.C. §228.2(a)(2)(A)	Failure to provide proof of current insurance coverage to the landowner or landowner's agent prior to conducting a burn. (Second violation)	Administrative	Second violation within three years: \$500 fine.	1. Second violation with harm to the public or third parties: fine of \$600 to \$1,000. 2. If a CIPBM engages in false or misleading conduct when providing proof of coverage to a landowner or landowner's agent, the department may impose enhanced administrative penalty(ies), up to and including the maximum fine of \$5,000, temporary suspension of certification, and/or permanent revocation of certification, based on the
--	--	----------------	--	--

				factors set forth in Section 153.102 of the Texas Natural Resources Code.
§153.082 of the Texas Natural Resources Code and 4. T.A.C. §228.2(a)(2)(A)	Failure to provide proof of current insurance coverage to the landowner or landowner's agent prior to conducting a burn. (Third violation)	Administrative	Third violation within three years: \$1,000 fine.	<p>1. Third violation with harm to the public or third parties: Permanent revocation of certification with a fine of \$1,250 to \$5,000</p> <p>2. If a CIPBM engages in false or misleading conduct when providing proof of coverage to a landowner or landowner's agent, the department may impose enhanced administrative penalty(ies), up to and including the maximum fine of \$5,000, temporary suspension of certification, and/or permanent revocation of certification, based on the factors set forth in Section 153.102 of the Texas Natural Resources Code.</p>

4. T.A.C. §228.2(a)(2)	Failure to provide a copy of the certified and insured prescribed burn manager certificate to the landowner or landowner's agent prior to conducting a burn. (Initial violation)	Administrative	Initial violation: \$250 fine.	Initial violation with harm to the public or third parties: \$300 to \$500.
4. T.A.C. §228.2(a)(2)	Failure to provide a copy of the certified and insured prescribed burn manager certificate to the landowner or landowner's agent prior to conducting a burn. (Second violation)	Administrative	Second violation within three years: \$500 fine.	Second violation with harm to the public or third parties: fine of \$2,500 to \$3,000.
4. T.A.C. §228.2(a)(2)	Failure to provide a copy of the certified	Administrative	Third violation within three	Third violation with harm to the public or third parties:

	and insured prescribed burn manager certificate to the landowner or landowner's agent prior to conducting a burn. (Third violation)		years: \$1,000 fine.	Permanent revocation of certification with a fine of \$1,250 to \$5,000.
4 T.A.C. §227.3	Failure to obtain required CFTs or maintain documentation of CFTs. (Initial Violation)	Administrative	Initial violation: \$250.00 fine.	Initial violation with harm to the public or third parties: fine of \$500.
4 T.A.C. §227.3	Failure to obtain required CFTs or maintain documentation of CFTs. (Second Violation)	Administrative	Second violation within three years: \$500 fine.	Second violation with harm to the public or third parties: fine of \$600 to \$1,000.

4 T.A.C. §227.3	Failure to obtain required CFTs or maintain documentation of CFTs. (Third Violation)	Administrative	Third violation within three years: \$1,000 fine.	Third violation with harm to the public or third parties: Permanent revocation of certification with a fine of \$1,250 to \$5,000.
4 T.A.C. §§ 229.4(b)(1)	Failure by CFT sponsor to provide activity roster within 14 days after the end of a CFT activity. (Initial Violation)	Administrative	Initial violation: 15 day suspension from administering, presenting, or instructing at CFT activities.	Not applicable.
4 T.A.C. §§ 229.4(b)(1)	Failure by CFT sponsor to provide activity roster within 14 days after the end of a CFT activity. (Second Violation)	Administrative	Second violation within three years: 30 day suspension from administering, presenting, or instructing at CFT activities.	Not applicable

4 T.A.C. § 229.4(c)	Multiple violations of Rule 229.4 by a CFT sponsor.	Administrative	Multiple violations: The department will refer the CFT sponsor to the Board, for consideration of a temporary suspension or permanent revocation of the CFT sponsor from further CFT activities.	In determining the recommended length of temporary suspension of a CFT sponsor, or whether to revoke a CFT sponsor, the department will consider those factors set forth in Section 153.102 of the Texas Natural Resources Code.
---------------------	---	----------------	--	--

4 T.A.C. §227.4(d)	Failure to keep insurance records. Insurance records shall be kept for the longer of five years from the date of the original issuance of the insurance policy, or for so long as any complaint or litigation is pending against the CIPBM (Initial Violation)	Record Keeping	Initial violation: \$250.00 fine.	Not applicable.
4 T.A.C. § 227.4(d)	Failure to keep insurance records. Insurance records shall be kept for the longer of five years from the date of the original issuance of the insurance policy, or for so long as any complaint or litigation is pending against the certified and insured prescribed burn manager CIPBM(Second Violation)	Record Keeping	Second violation within three years: \$500 fine.	Not applicable.
4 T.A.C. § 227.4(d)	Failure to keep insurance records.	Record Keeping	Third violation within three	Not applicable.

	Insurance records shall be kept for the longer of five years from the date of the original issuance of the insurance policy, or for so long as any complaint or litigation is pending against the CIPBM(Third Violation)		years: \$1,000 fine.	
--	--	--	----------------------	--

4 T.A.C. § 227.4(d)	Failure to keep CFT records and have them available for inspection. CFT records shall be kept for a minimum of 5 years from the date the CFT was earned. (Initial Violation)	Record Keeping	Initial violation: \$250.00 fine	Not applicable.
4 T.A.C. § 227.4(d)	Failure to keep CFT records and have them available for inspection. CFT records shall be kept for a minimum of 5 years from the date the CFT was earned. (Second Violation)	Record Keeping	Second violation within three years: \$400 fine.	Not applicable.
4 T.A.C. § 227.4(d)	Failure to keep CFT records and have them available for inspection. CFT records shall be kept for a minimum of 5 years from the date the CFT was earned . (Third Violation)	Record Keeping	Third violation within three years: \$1,000 fine.	Not applicable.
4 T.A.C. § 227.4(d)	Failure to keep training and experience records and have them available for inspection. Such records shall be kept for a minimum of 5	Record Keeping	Initial violation: \$250.00 fine.	Not applicable.

	years from the date of the indicated training and/or experience. (Initial Violation)			
--	--	--	--	--

4 T.A.C. § 227.4(d)	Failure to keep training and experience records and have them available for inspection. Such records shall be kept for a minimum of 5 years from the date of the indicated training and/or experience. (Second Violation)	Record Keeping	Second violation within three years: \$400 fine.	Not applicable.
4 T.A.C. § 227.4(d)	Failure to keep training and experience records and have them available for inspection. Such records shall be kept for a minimum of 5 years from the date of the indicated training and/or experience. (Third Violation)	Record Keeping	Third violation within three years: \$1,000 fine.	Not applicable.
4 T.A.C. § 227.4(d)	Failure to have available or keep a Prescribed Burn File for a minimum of 5 years from the date of a prescribed burn. (Initial Violation)	Record Keeping	Initial violation: \$250.00 fine.	Not applicable.
4 T.A.C. § 227.4(d)	Failure to have available or keep a Prescribed Burn File for a minimum of 5 years from the date of a prescribed burn. (Second Violation)	Record Keeping	Second violation within three years: \$500 fine.	Not applicable.

4 T.A.C. § 227.4(d)	Failure to have available or keep a Prescribed Burn File for a minimum of 5 years from the date of a prescribed burn. (Third Violation)	Record Keeping	Third violation within three years: \$1,000 fine.	Not applicable
§153.047(2) of the Natural Resources Code; 4 T.A.C. § 228.3(a)	Failure to have an insured CIPBM present at all times while a prescribed burn is in progress. (Initial Violation)	Statutory or Rule	Initial violation: One year suspension and \$1,000 fine.	Initial violation with harm to the public or third parties: 13 month to 24 month suspension; fine of \$1,100 to \$5,000.
§153.047(2) of the Natural Resources Code; 4 T.A.C. § 228.3(a)	Failure to have an insured CIPBM present at all times while a prescribed burn is in progress. (Second Violation)	Statutory or Rule	Second violation within three years: Permanent revocation of certification and a \$2,000 fine.	Second violation with harm: Permanent revocation of certification and fine of \$2,100 to \$5,000.
§153.047(3)(A) of the Natural Resources Code; 4 T.A.C. §§ 228.1(a) & 228.1(b)	Failure to follow a written prescribed burn plan while conducting a prescribed burn. (Initial Violation)	Statutory or Rule	Initial violation: \$1,000.00 fine.	Punishment may be enhanced for reckless or intentional conduct that results in substantial harm to a third party or the public, pursuant to the factors set forth in Section 153.102 of the Texas Natural Resources Code.
§153.047(3)(A) of the Natural Resources Code; 4 T.A.C. § 228.1(a) & 228.1(b)	Failure to follow a written prescribed burn plan while conducting a prescribed burn. (Second Violation)	Statutory or Rule	Second violation within three years: 15 to 180 day suspension with \$2,000 fine.	Punishment may be enhanced for reckless or intentional conduct that results in substantial harm to a third party or the public, pursuant to the factors set forth in Section 153.102 of the Texas Natural Resources Code.
§153.047(3)(A) of the Natural Resources Code; 4 T.A.C. § 228.1(a) & 228.1(b)	Failure to follow a written prescribed burn plan while conducting a prescribed burn. (Third Violation)	Statutory or Rule	Third violation within three years: Permanent revocation of certification with \$3,000 fine.	Third violation with harm to the public or third parties: Permanent revocation of certification with a fine of \$3,100 to \$5,000.
§153.047(3) of the Natural Resources Code; 4 T.A.C. § 228.1(a)	Conducting a prescribed burn without a written prescribed burn plan. (Initial Violation)	Statutory or Rule	Initial violation: Permanent revocation of certification with a \$5,000 fine.	Not applicable.

4 T.A.C. §228.4	Failure to establish and adhere to a written Burn/Do Not Burn checklist during a county burn ban. (Initial Violation)	Statutory or Rule	Initial violation: \$1,000 fine.	Initial violation with harm to the public or third parties: 15 to 180 day suspension with fine of \$1,000 to \$2,500.
4 T.A.C. §228.4	Failure to establish and adhere to a written Burn/Do Not Burn checklist during a county burn ban. (Second Violation)	Statutory or Rule	Second violation within three years: 15 to 180 day suspension with \$2,000 fine.	Second violation with harm to the public or third parties: Suspension of license from 60 days to 18 months; fine of \$2,100 to \$3,000.
4 T.A.C. §228.4	Failure to establish and adhere to a written Burn/Do Not Burn checklist during a county burn ban. (Third Violation)	Statutory or Rule	Third violation within three years: Permanent revocation of certification with \$3,000 fine.	Third violation with harm to the public or third parties: Permanent revocation of certification with fine of \$3,100 to \$5,000.
§153.047(4) of the Natural Resources Code; 4 T.A.C. §228.2(a)(1)	Failure to provide written notification to residents, occupants or operators of structures containing sensitive receptors (residences, greenhouses, stables, etc.) that are within 300 feet of and in the general direction downwind from the prescribed burn. (Initial Violation)	Statutory or Rule	Initial violation: \$1,000.00 fine.	Initial violation with harm to the public or third parties: 15 to 180 day suspension with fine of \$1,200 to \$2,500.

§153.047(4) of the Natural Resources Code; 4 T.A.C. 227.4(b)(1)(B) §228.2(a)(1)	Failure to provide written notification to residents, owners, occupants or operators of structures containing sensitive receptors (residences, greenhouses, stables, etc.) that are within 300 feet of and in the	Statutory or Rule	Second violation within three years: 15 to 180 day suspension with \$2,000 fine.	Second violation with harm to the public or third parties: Suspension of license from 60 days to 18 months; fine of \$2,100 to \$3,000.
---	---	-------------------	--	---

	general direction downwind from the prescribed burn. (Second Violation)			
§153.047(4) of the Natural Resources Code; 4 T.A.C. §228.2(a)(1)	Failure to provide written notification to residents, owners, occupants or operators of structures containing sensitive receptors (residences, greenhouses, stables, etc.) that are within 300 feet of and in the general direction downwind from the prescribed burn (Third Violation)	Statutory or Rule	Third violation within three years: Permanent revocation of certification with \$3,000 fine.	Third violation with harm to the public or third parties: Permanent revocation of certification with fine of \$3,100 to \$5,000.

§ 153.104 of the Natural Resources Code	Upon reasonable determination by the department, a CIPBM is engaged in or about to engage in conduct in violation of Chapter 153 of the Natural Resources Code which constitutes an immediate threat to public welfare.	Statutory or Rule	Emergency temporary suspension.	Punishment may be enhanced for reckless or intentional conduct that results in substantial harm to a third party or the public.
Chapter 153 of the Texas Natural Resources Code; 4 T.A.C. Chapters 225, 226, 227, 228, 229, and 230	Multiple violations by a CIPBM of Chapter 153 of the Natural Resources Code; multiple violations of administrative rules pertaining to obtaining, maintaining or keeping insurance; multiple violations of administrative rules pertaining to obtaining or	Statutory or Rule	For four or more violations of statute or rules that regulate prescribed burning activities in Texas, the department may assess the following penalties: \$1,500 to \$5,000 fine; suspension of 15 days to 20 months; and/or	In determining the sanction(s) for four or more violations of any single statute or rule, or four or more violations of multiple statutes or rules, the department will consider those factors set forth in Section 153.102 of the Texas Natural Resources Code.

	reporting CEUs; multiple violations of record keeping rules; multiple violations of 4 T.A.C. Chapters 225, 226, 227, 228, 229, and 230; and/or any combination of the above.		permanent revocation of certification.	
--	--	--	--	--

Texas Commission on Environmental Quality (TCEQ) Rules, <i>Outdoor Burning in Texas</i> ,, <u>General Requirements for Burning</u>	Violation of TCEQ Rules	TCEQ rules	The department will refer known or suspected violations of TCEQ rules or guidelines to TCEQ for enforcement.	Not applicable.
Section 153.103 of the Natural Resources Code	If a person represents to the public that he or she is a CIPBM, but is not a CIPBM, the department may apply to a district court in any county for an injunction restraining such person from representing that he or she is a CIPBM.	Statute	Section 153.103 of the Natural Resources Code gives the department authority to apply for an injunction from a district court in any county to restrain a person who is not a CIPBM from representing that the person is a CIPBM.	Not applicable.