

## CHAPTER 62-256 OPEN BURNING AND FROST PROTECTION FIRES

- 62-256.100 Declaration and Intent. (Repealed 7/6/05)
- 62-256.200 Definitions. (Effective 7/6/05)
- 62-256.300 Prohibitions. (Effective 10/6/08)
- 62-256.400 Agricultural and Silvicultural Fires. (Repealed 7/6/05)
- 62-256.450 Burning for Cold or Frost Protection. (Repealed 7/6/05)
- 62-256.500 Land Clearing. (Repealed 7/6/05)
- 62-256.600 Industrial, Commercial, Municipal, and Research Open Burning. (Repealed 7/6/05)
- 62-256.700 Open Burning Allowed. (Effective 10/6/08)
- 62-256.800 (Repealed 7/6/05)

### **62-256.200 Definitions.**

The following words, phrases, or terms when used in this chapter shall, unless the content otherwise indicates, have the following meanings:

- (1) "Air curtain incinerator" is a portable or stationary combustion device that directs a plane of high velocity forced draft air through a manifold head into a pit with vertical walls in such a manner as to maintain a curtain of air over the surface of the pit and a recirculating motion of air under the curtain. An air curtain incinerator is considered open burning for purposes of this chapter and Rule 62-701.300, F.A.C.
- (2) "Air pollution episode" is any day on which generally unhealthy air (an Air Quality Index value of 151 or greater) occurs or is forecast to occur by the Department.
- (3) "Department" is the Department of Environmental Protection.
- (4) "Extinguished" means the absence of any visible flames, smoke or emissions.
- (5) "Garbage" means all kitchen and table food waste, animal or vegetative waste that is attendant with or results from the storage, packaging, preparation, cooking or handling of food materials.
- (6) "Group I containers" means combustible containers which formerly contained organic or metallo-organic pesticides, except organic mercury, lead, cadmium, or arsenic compounds.
- (7) "Land clearing debris" is uprooted or cleared vegetation resulting from a land clearing operation, including any untreated wood generated by the land clearing operation (e.g., untreated fence posts).
- (8) "Land clearing operation" means the uprooting or clearing of vegetation in connection with construction for buildings and rights-of-way; land development; or mineral operations. It does not include landscaping and yard maintenance operations or other such routine property clean-up activities.
- (9) "National Weather Service air stagnation advisory" is an advisory issued by the National Weather Service to caution local and regional agencies of meteorological conditions which are conducive to poor dispersion and that are expected to persist for at least 36 hours.
- (10) "Open burning" means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the outdoor atmosphere without passing through a stack or chimney.
- (11) "Open field" means any location in a well ventilated cleared area that is at least 200 feet in all directions from any wooded area or occupied building(s), and 100 feet from any public road.
- (12) "Pesticide" means any substance or mixture substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses or fungi on or in living man or other animals, which the Department of Agriculture and Consumer Services shall declare to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.
- (13) "Sunset" is the official time the sun will set as set forth by the U.S. Naval Observatory (tables are available at National Weather Service offices and on the internet at [www.usno.navy.mil](http://www.usno.navy.mil)).
- (14) "Trash" means materials resulting from the construction, renovation or demolition of a structure, and other debris such as paper, cardboard, packing material, cloth, glass, street sweepings, vehicle tires and other like matter. The term does not include untreated wood or vegetative debris.

(15) "Treated wood" means wood coated or infused with paint, glue, filler, pentachlorophenol, creosote, tar, asphalt, chromated copper arsenate (CCA), or other wood preservatives or treatments.

(16) "Tree cutting debris" is debris consisting of trees, tree stumps, and tree limbs resulting from a tree removal or tree trimming operation.

(17) "Untreated wood" means wood (including lighter pine, tree trunks, limbs and stumps, shrubs, and lumber) which is free of paint, glue, filler, pentachlorophenol, creosote, tar, asphalt, chromated copper arsenate (CCA), and other wood preservatives or treatments.

(18) "Waste pesticide containers" means any containers made of combustible materials, including but not limited to paper, plastic, or burlap, which formerly contained pesticides and which the manufacturer or formulator provided as an end user conveyance for the specified product.

(19) "Yard waste" means vegetative matter resulting from landscaping and yard maintenance operations and other such routine property clean-up activities. It includes materials such as leaves, shrub trimmings, grass clippings, palm fronds, and brush. It does not include land clearing debris or tree cutting debris.

*Specific Authority 403.061 FS. Law Implemented 403.031, 403.061 FS. History—New 7-1-71, Amended 1-11-82, 7-30-85, Formerly 17-5.02, Amended 10-20-86, Formerly 17-5.020, 17-256.200, Amended 11-30-94, 7-6-05.*

### **62-256.300 Prohibitions.**

(1) General Prohibition. No person shall ignite, cause to be ignited, or permit to be ignited, any material which will result in any prohibited open burning as regulated by this chapter; nor shall any person suffer, allow, conduct or maintain any prohibited open burning.

(2) Prohibition on the Open Burning of Certain Materials.

(a) Except as provided at paragraph 62-256.300(2)(b), F.A.C., the open burning of biological waste, hazardous waste, asbestos-containing materials, mercury-containing devices, pharmaceuticals, tires, rubber material, residual oil, used oil, asphalt, roofing material, tar, treated wood, plastics, garbage, or trash is prohibited.

(b) Notwithstanding the provisions of paragraph 62-256.300(2)(a), F.A.C., certain otherwise prohibited materials may be burned for the training of firefighters in accordance with subsection 62-256.700(4), F.A.C.; waste pesticide containers may be burned in accordance with subsection 62-256.700(5), F.A.C.; animal carcasses may be burned in accordance with subsection 62-256.700(6), F.A.C.; and polyethylene agricultural plastic, untreated wood pallets, and packing material used in agriculture may be burned in accordance with subsection 62-256.700(7), F.A.C.

(c) Open burning of vegetative debris and untreated wood is prohibited except as provided at subsections 62-256.700(1), (2), (3), (8), (9), and (10), F.A.C., or subsection 62-296.320(3), F.A.C.

(3) Prohibition on Open Burning During Adverse Conditions. No open burning, including use of any air curtain incinerator exempted from permitting pursuant to Rule 62-210.300, F.A.C., shall be conducted during a National Weather Service Air Stagnation Advisory or Air Pollution Episode, or if the Department of Agriculture and Consumer Services, Florida Forest Service, has determined that weather conditions are unfavorable for safe burning.

(4) Applicability of Other Laws, Rules and Ordinances. Nothing in this chapter shall relieve any person from complying with any other applicable laws, rules, or ordinances, including Chapter 590, F.S.; rules of the Department of Agriculture and Consumer Services, Florida Forest Service; and ordinances of any local, county, or municipal government.

*Specific Authority 403.061 FS. Law Implemented 403.031, 403.061 FS. History—New 7-1-71, Amended 1-11-82, 7-30-85, Formerly 17-5.03, Amended 10-20-86, 8-26-87, Formerly 17-5.030, 17-256.300, Amended 11-30-94, 7-6-05, 10-6-08.*

### **62-256.700 Open Burning Allowed.**

(1) Open Burning of Yard Waste.

(a) Open burning of yard waste is allowed provided:

1. The yard waste was generated on residential premises of not more than two family units;
2. The open burning is conducted on the premises where the material was generated;
3. The fire is ignited after 8:00 a.m. Central time or 9:00 a.m. Eastern time and extinguished no later than one hour before sunset, provided however that no burning shall be conducted during windy conditions;

4. The fire is enclosed in a noncombustible container or is restricted to a pile no greater than eight feet in diameter built upon ground cleared of all combustible material;

5. The fire is set back at least 25 feet from any wildlands, brush, or combustible structure, 50 feet from any paved public roadway, and 150 feet from any occupied building other than that owned or leased by the individual doing the burning;

6. The fire is attended and adequate fire extinguishing equipment is readily available at all times; and

7. The moisture content and composition of material to be burned is favorable to good burning which will minimize smoke.

(b) Except as provided above and at subsections 62-256.700(8) and (9), F.A.C., any other open burning of yard waste is allowed only if such burning is conducted using a Department-permitted air curtain incinerator operated in compliance with the provisions of Rule 62-296.401, F.A.C., and any other terms of the unit's air permit.

(2) Open Burning of Tree Cutting Debris.

(a) Open burning of tree cutting debris is allowed provided:

1. The tree cutting debris was generated on residential premises of not more than two family units;

2. The open burning is restricted to the site where the tree cutting debris was generated;

3. The fire is ignited after 8:00 a.m. Central time or 9:00 a.m. Eastern time and shall have no visible flame one hour before sunset or anytime thereafter, except in smoke sensitive areas as determined by the Florida Forest Service, where the fire must be extinguished no later than one hour before sunset;

4. The fire is attended, and adequate fire extinguishing equipment is readily available at all times;

5. The moisture content and composition of material to be burned is favorable to good burning which will minimize smoke; and

6. Prior to conducting the open burning, the person responsible for the burn contacts the Florida Forest Service regarding the planned burning activity.

(b) Except as provided above and at subsections 62-256.700(8) and (9), F.A.C., any other open burning of tree cutting debris shall be conducted using a Department-permitted air curtain incinerator operated in compliance with the provisions of Rule 62-296.401, F.A.C., and any other terms of the unit's air permit.

(3) Open Burning of Land Clearing Debris.

(a) Open burning of land clearing debris is allowed provided:

1. The open burning is restricted to the site where the land clearing debris was generated;

2. The fire is ignited after 8:00 a.m. Central time or 9:00 a.m. Eastern time and shall have no visible flame one hour before sunset or anytime thereafter, except in smoke sensitive areas as determined by the Florida Forest Service, where the fire must be extinguished no later than one hour before sunset;

3. The fire is attended, and adequate fire extinguishing equipment is readily available at all times;

4. The moisture content and composition of material to be burned is favorable to good burning which will minimize smoke; and

5. Prior to conducting the open burning, the person responsible for the burn contacts the Florida Forest Service regarding the planned burning activity.

(b) Except as provided above, any other open burning of land clearing debris shall be conducted using an air curtain incinerator operated in compliance with the terms of the exemption from air permitting at Rule 62-210.300, F.A.C., if such exemption applies, or if such exemption does not apply, in compliance with the provisions of Rule 62-296.401, F.A.C., and any other terms of the unit's air permit.

(4) Open Burning for the Training of Firefighters.

(a) Except as provided at paragraph 62-256.700(4)(b), F.A.C., open burning is allowed for the instruction and training of organized firefighters or industrial employees under the supervision of the appropriate public fire control official provided that all such burning is conducted at a fire training center certified by the Department of Financial Services, Division of State Fire Marshal, and does not involve the burning of any asbestos-containing materials, mercury-containing devices, or hazardous waste.

(b) A structure not on the premises of a certified fire training center may be burned for the instruction and training of organized firefighters provided the following conditions are met.

1. The burning activities shall be conducted under the auspices of a certified training center or by an organized fire department recognized by the Division of State Fire Marshal. Said activities shall be supervised by a fire training instructor certified by the Division of State Fire Marshal;

2. The burning shall be conducted in accordance with the National Fire Protection Association document, "Standard on Live Fire Training Evolutions, 2002 Edition (NFPA 1403)," hereby adopted and incorporated by reference, and available from the National Fire Protection Association, P. O. Box 9101, Quincy, MA 02269-9101;

3. The burning of the structure and disposal of the waste products shall be conducted in compliance with all applicable provisions of 40 CFR Part 61, Subpart M, National Emission Standard for Asbestos, adopted and incorporated by reference at Rule 62-204.800, F.A.C.;

4. Prior to the structure being burned, all hazardous waste, mercury-containing devices, and vinyl siding shall be removed; and

5. The Florida Forest Service and the Department shall be notified at least 10 business days in advance of the time and place of the burning exercise.

(5) Open Burning of Waste Pesticide Containers. Subject to all of the following conditions, waste pesticide containers may be burned in open fields by the owner of the crops, the owner's authorized employee or caretaker, or by commercial pesticide applicators hired by the owner or caretaker.

(a) Plastic containers must be the original container provided by the pesticide manufacturer or formulator as end user conveyance for the specific product, and not reused containers designed for other products.

(b) Containers must be classified as Group I Containers and bear label instructions stating that small quantities of the containers may be burned in open fields by the user of the pesticide when such open burning is permitted by State and local regulations.

(c) The quantity of containers to be burned each day per parcel treated shall not exceed the amount accumulated during one day's use of pesticide. No more than 500 pounds of pesticide containers shall be burned per day at any specific location. If more than one fire is to be set in any area each specific burning location shall be at least 1,000 yards from each other location at which burning will occur concurrently.

(d) All Group I Containers which are to be disposed by open burning shall be completely empty and free of residual material pursuant to the following criteria:

1. Plastic containers including inner liners shall be triple rinsed with the same kind of solvent used to dilute the spray mixture in the field. The rinse liquids from the containers shall be added to the spray mixture in the field.

2. Paper containers shall be emptied by a final shaking and tapping of the sides and bottom to remove clinging particles. All loosened particles shall be added to the spray mixture or application in the field.

(e) The open burning shall meet the following conditions:

1. The open burning is two hundred feet or more away from any farm workers or occupied buildings and is one hundred feet or more away from any public road.

2. The fire is ignited after 9:00 a.m. and is extinguished one hour before sunset of the same day.

3. The person responsible for the burning is in attendance at an upwind location from the fire for the entire period of the burn (until all flame and smoke have dissipated).

4. The open burning is enclosed in a noncombustible container or ground excavation covered by a metal grill.

(6) Open Burning of Animal Carcasses. Open burning of animal carcasses is allowed provided:

(a) The Department of Agriculture and Consumer Services has determined that the need for destruction of such carcasses constitutes an emergency requiring the use of open burning; and

(b) Such burning is conducted using an air curtain incinerator operated in compliance with the terms of the exemption from air permitting at Rule 62-210.300, F.A.C., if such exemption applies, or if such exemption does not apply, in compliance with the provisions of Rule 62-296.401, F.A.C., and any other terms of the unit's air permit.

(7) Open Burning Related to Agricultural Operations.

(a) Open burning of the following materials used in agricultural operations related to the growing, harvesting or maintenance of crops is allowed provided such burning is conducted in accordance with the provisions of Section 403.707(2)(e), F.S.

1. Polyethylene agricultural plastic;

2. Damaged, nonsalvageable, untreated wood pallets; and

3. Packing material that cannot feasibly be recycled.

(b) Agricultural burning conducted under the authority of the Department of Agriculture and Consumer Services is not regulated under this chapter.

(8) Open Burning of Storm-Generated Debris. Open burning of storm-generated debris consisting only of vegetative debris and untreated wood is allowed provided:

(a) The open burning is conducted by or under the authority of the municipal or county government responsible for clean-up activities following a storm;

(b) Such burning is conducted using an air curtain incinerator operated in compliance with the terms of the exemption from air permitting at Rule 62-210.300, F.A.C., if such exemption applies, or if such exemption does not apply, in compliance with the provisions of Rule 62-296.401, F.A.C., and any other terms of the unit's air permit; or such burning is pile burning conducted under the authority of the Florida Forest Service; and

(c) By no later than 10 days after the start of the open burning, the local government or its agent provides a written notice to the Department describing the general nature of the materials being burned, the location of the burning activity, the method of burning being used, and the name, address, and telephone number of the local government representative to contact regarding the burning activity.

(9) Open Burning of Insect or Disease-Infested Vegetation. Open burning of insect or disease-infested vegetation is allowed provided:

(a) The Director of the Florida Forest Service has determined that the need for destruction of such vegetation constitutes an emergency requiring the use of open burning; and

(b) Such burning is conducted using an air curtain incinerator operated in compliance with the terms of the exemption from air permitting at Rule 62-210.300, F.A.C., if such exemption applies, or if such exemption does not apply, in compliance with the provisions of Rule 62-296.401, F.A.C., and any other terms of the unit's air permit; or such burning is pile burning conducted under the authority of the Florida Forest Service.

(10) Recreational Open Burning. Nothing in this chapter shall be construed to prohibit the open burning of vegetative debris and untreated wood in a campfire, ceremonial bonfire, outdoor fireplace, or other contained outdoor heating or cooking device, or on cold days for warming of outdoor workers.

*Specific Authority 403.061 FS. Law Implemented 403.031, 403.061, 403.707 FS. History—New 7-1-71, Amended 1-11-82, 10-10-82, 7-30-85, Formerly 17-5.09, Amended 10-20-86, 8-26-87, 11-23-88, Formerly 17-5.090, 17-256.700, Amended 11-30-94, 7-6-05, 10-6-08.*