

**Florida Department of Environmental Protection
Division of Air Resource Management
Summary of Amendments to Florida’s Open Burning Rules
June 16, 2005**

Contents

Background	1
Highlights of Rule Amendments	2
Conceptual Outline of Chapter 62-256, F.A.C., as Amended	3
List of Amendments to Chapter 62-256, F.A.C.	4
Portions of Chapter 62-256, F.A.C., Eliminated	9
List of Amendments to Chapter 62-210, F.A.C.	10

Background

- The Department of Environmental Protection (DEP), Division of Air Resource Management, has amended its open burning rules. The Department of Agriculture and Consumer Services (DACS), Division of Forestry (DOF), is proposing to amend its open burning rules in the near future.
- The DEP’s open burning rules are primarily found at Chapter 62-256, F.A.C. The DOF’s open burning rules are at Chapter 5I-2, F.A.C. Some provisions, related to the exemption of portable air curtain incinerators (ACIs) from air permitting, are also found at DEP Chapter 62-210, F.A.C.
- Chapter 62-256, F.A.C., regulates all open burning other than agricultural/silvicultural burning and prescribed fire. It prohibits open burning during adverse weather conditions and the open burning of certain highly polluting materials at all times, with a few minor exceptions. It prohibits open pile burning of yard trash and tree cutting debris generated on non-residential properties but allows such burning on residential premises, subject to certain restrictions. In addition, the rule allows onsite open burning of land clearing debris, either in temporary ACIs or open piles.
- Chapter 5I-2, F.A.C., regulates agricultural/silvicultural burning and prescribed fire activities. In addition, it establishes specific conditions for the open pile burning of vegetative debris (i.e., tree cutting debris and land clearing debris).
- Chapters 62-210, F.A.C., and 62-256, F.A.C., are part of Florida’s State Implementation Plan (SIP) under the Clean Air Act. As such, the amendments to these rules will be submitted to the U.S. Environmental Protection Agency (EPA) as a proposed revision to the SIP.
- Authority to enforce most of Chapter 62-256, F.A.C., has been delegated to the DOF through a 1996 Memorandum of Understanding (MOU) between the DEP and DACS. The MOU will be updated upon completion of each agency’s rulemaking.
- The MOU does not cover the eight DEP-approved local air programs in Duval, Orange, Hillsborough, Pinellas, Sarasota, Palm Beach, Broward, and Miami-Dade counties. Those programs enforce Chapter 62-256, F.A.C., or stricter local ordinances, under their own authority.
- Chapter 62-256 had not been touched in many years. Both the DEP and the DOF had agreed that the rule was unnecessarily complicated and difficult to enforce, especially with respect to the burning of yard waste. The rule amendments reduce unnecessary complexity, eliminate overlapping responsibilities, and make the rule easier to understand and, thus, more likely to be complied with. The DEP and the DOF are planning to jointly develop and distribute public education materials related to the amended yard waste rule to increase the rate of compliance by homeowners.

Highlights of Rule Amendments

Chapter 62-256

- The list of materials prohibited to be open-burned is expanded to include hazardous waste, biological waste, asbestos-containing materials, mercury-containing devices, pharmaceuticals, used oil and treated wood (including CCA-treated lumber).
- The prohibition on open burning during adverse weather conditions is expanded to include any day on which an air quality index value of 151 or greater (generally unhealthy air) occurs or is forecast to occur.
- The list of fuels and outdoor heating devices approved for use in protecting agricultural products from cold and frost is repealed. Open burning is no longer commonly used for crop protection. If it should be used, the list of prohibited materials would apply.
- Chapter 62-256, F.A.C., is amended to clarify that routine disposal of vegetative debris by open pile burning is prohibited except for onsite residential burning of yard waste and tree-cutting debris and onsite burning of land clearing debris. To eliminate overlapping requirements, new rule language requires that persons planning to open-burn tree-cutting debris and land clearing debris, to the extent allowed by the DEP under Chapter 62-256, F.A.C., must first contact the DOF. Any additional requirements to obtain a DOF burn authorization, such as minimum setback distances, would be established by the DOF at Chapter 5I-2, F.A.C.
- Onsite burning of yard waste, where not prohibited or otherwise restricted by local ordinance, must be conducted in accordance with criteria established by the DEP at Chapter 62-256, F.A.C. To help encourage recycling and discourage the burning of household garbage in backyard burn barrels, the amended rule language no longer allows burning of household paper products as part of yard waste.
- The current rule prohibits yard waste burning where periodic pick-up service is available, but only in seven counties. New rule language does not contain this prohibition but clarifies that more restrictive local ordinances may apply. The seven affected counties have local air programs that may choose to adopt this prohibition themselves.
- Amended rule language clarifies that structures not on the premises of a certified fire training center may be burned for the training of firefighters provided certain conditions are met including compliance with the National Emissions Standard for Asbestos and removal of all hazardous waste, mercury-containing devices, and vinyl siding prior to burning.
- New rule language provides that storm debris may be burned under the authority of a city or county government in a temporary or permanent ACI, or in open piles under the authority of the DOF. This accomplishes the same purpose as the DEP's hurricane emergency orders of 2004, except that an emergency order would still be needed to authorize 24-hour burning.
- New rule language provides for the emergency burning of animal carcasses in an ACI and the emergency burning of insect or disease-infested vegetation in an ACI or in open piles.

Chapter 62-210

- All provisions related to the use of portable ACIs are consolidated at Chapter 62-210, F.A.C. The provisions are made part of a conditional exemption from air permitting for temporary units.
- The opacity limitations for exempt ACIs are tightened to 10%, steady-state, and 35% for startup, consistent with the requirements of 40 CFR Part 60, Subparts AAAA, BBBB, CCCC, and DDDD.
- Language is added clarifying that if an ACI is operated as a temporary unit in accordance with all conditions of the permitting exemption, it shall not be subject to any testing, reporting, or recordkeeping requirement of 40 CFR Part 60, Subpart AAAA, BBBB, CCCC, or DDDD.

Conceptual Outline of Chapter 62-256, F.A.C., as Amended

- I. **General Prohibition** – No burning allowed if prohibited by Chapter 62-256. Conversely, open burning allowed by default if not specifically prohibited. (256.300(1))
- II. **Prohibited Materials** – No burning allowed 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 (where trash includes construction waste, paper, cardboard, packing material, cloth, glass, & street sweepings), except as provided below. (256.300(2))

Exceptions:

Structural Materials for Training of Fire Fighters – No burning of NESHAP-regulated asbestos, mercury, hazardous waste, or vinyl siding, but other materials allowed. Advance notification required if burning a structure not at a Fire Marshal-certified training center, but no DEP authorization required. (256.700(4))

Waste Pesticide Containers – No significant change to current rule; containers allowed to be burned in open fields by farmers, with certain restrictions. (256.700(5))

Animal Carcasses – Allowed to be burned in a permitted or temporary air curtain incinerator, if emergency need determined by DACS. (256.700(6))

Agricultural Materials – Polyethylene plastic mulch, untreated wood pallets, and packing material that cannot feasibly be recycled allowed to be burned in accordance with F.S. 403.707(2)(e). (256.700(7))

- III. **Vegetative Debris and Untreated Wood** – No burning allowed of vegetative debris and untreated wood, except as provided below. (256.300(2))

Exceptions:

Yard Waste –

Routine: Allowed to be burned in a permitted air curtain incinerator or on residential premises only, subject to certain restrictions. No DOF burn authorization required. (256.700(1))

Storm-Related: Allowed to be burned under authority of city or county government in a permitted or temporary air curtain incinerator, or in open piles under authority of DOF. (256.700(8))

Tree Cutting Debris –

Routine: Allowed to be burned in a permitted air curtain incinerator or on residential premises only. In the case of residential pile burning, burner must first contact DOF. (256.700(2))

Storm-Related: Allowed to be burned under authority of city or county government in a permitted or temporary air curtain incinerator, or in open piles under authority of DOF. (256.700(8))

Insect or Disease-Infested: Allowed to be burned in a permitted or temporary air curtain incinerator, or in open piles under authority of DOF if emergency need determined by DACS. (256.700(9))

Land Clearing Debris –

Offsite: Allowed to be burned in a permitted air curtain incinerator only. (256.700(3))

Onsite: Allowed to be burned in a permitted or temporary air curtain incinerator, or in open piles under authority of DOF. In either case, burner must first contact DOF. (256.700(3))

Other Vegetative Debris and Untreated Wood –

Storm-Related: Allowed to be burned under authority of city or county government in a permitted or temporary air curtain incinerator, or in open piles under authority of DOF. (256.700(8))

Disease-Related: Allowed to be burned in a permitted or temporary air curtain incinerator, or in open piles under authority of DOF if emergency need determined by DACS. (256.700(9))

Recreational Burning: Campfires, outdoor fireplaces, ceremonial bonfires, contained outdoor heating and cooking devices, and fires for warming outdoor workers allowed. (256.700(10))

- IV. **Prohibited Burning During Adverse Conditions** – No burning allowed during air stagnation advisory or air pollution episode (defined as Air Quality Index 151 or greater; i.e., “generally unhealthy” air), or if DOF has determined that conditions are unfavorable for safe burning. (256.300(4))
- V. **Other Laws, Rules or Ordinances** – No person relieved from complying with any other applicable laws, rules or ordinances. (256.300(4))

List of Amendments to Chapter 62-256, F.A.C.

The amendments to Rules 62-256.200, .300, & .700, F.A.C., are shown in the Rule Amendments document in strike-through/underline format. A summary list of the amendments follows. To enable the repeal of Rule 62-256.500, F.A.C., the DEP has readopted portions of that rule into Rules 62-256.300 & .700, F.A.C. Some of the readopted text has also been amended. In addition, Rules 62-256.100, .400, .450, .600, & .800, F.A.C., have been repealed.

- **Title** The title of Chapter 62-256 is changed from “Open Burning and Frost Protection Fires” to just “Open Burning” to reflect the repeal of Section 62-256.450, F.A.C.
- **256.200(1)** The definition of “air curtain incinerator” is amended to clarify that an air curtain incinerator is considered “open burning” for purposes of Chapter 62-256, F.A.C., and Rule 62-701.300, F.A.C., rather than “controlled burning.” Rule 62-701.300(3), F.A.C., is a DEP solid waste management rule that prohibits the “controlled burning” of solid waste except in a “permitted incinerator.” Since the waste rule’s definition of solid waste includes land clearing debris (as part of “construction and demolition debris”), the existing waste rule language could be read to prohibit the burning of land clearing debris in a non-permitted air curtain incinerator. The two rules work better together if an air curtain incinerator is considered “open burning,” in which case Rule 62-701.300(3), F.A.C., simply requires adherence to Chapter 62-256, F.A.C.
- **256.200(2)(3)** The definition of “air pollution episode” is amended to make use of the Air Quality Index (AQI) system now used to categorize and forecast air pollution conditions. An episode would correspond to the occurrence of generally unhealthy air (AQI >150).
- **256.200(7)(12)** The definition of “land clearing debris” is amended to include untreated wood generated by a land clearing operation (e.g., old fence posts).
- **256.200(8)(13)** The definition of “land clearing operation” is revised for better clarity and to add “mineral operations,” consistent with the Division of Forestry (DOF) definition of the same term at Rule 5I-2.003, F.A.C.
- **256.200(13)(22)** The definition of “sunset” is amended to conform to the DOF definition.
- **256.200(14)(23)** The definition of “trash,” which appears in the list of materials prohibited to be open-burned, is amended to replace the phrase “construction and demolition debris” with some, but not all, of the materials otherwise included in the statutory definition of that term; specifically, waste materials other than untreated wood from construction, renovation and demolition projects. The statutory definition of “construction and demolition debris” (403.703(17), F.S.) is associated with the solid waste program and is used to specify material that may be disposed of in a C&D landfill, some of which could acceptably be open-burned under the provisions of this rule chapter. The definition of “trash” is also amended to add “packing materials” and to clarify that the term does not include “untreated wood” or “vegetative debris.”
- **256.200(15)** The term “treated wood” is added to function as the antonym for “untreated wood.” The term includes chromated copper arsenate (CCA) treated lumber, the effect of which is to clearly disallow such material from being open-burned.
- **256.200(16)** The term “tree cutting debris” is added to support rule language providing that trees, tree stumps and tree limbs resulting from a residential tree removal or tree trimming operation may be pile-burned in the same manner and under the same conditions as land clearing debris. “Residential tree cutting” replaces the concept of “residential land clearing” to make clearer the type of debris that is allowed to be burned onsite.
- **256.200(17)** The term “untreated wood” is added to replace the less intuitive term, “clean dry wood.” Untreated wood is allowed to be open-burned under conditions set forth in this chapter.

- **256.200(19)(25)** The term “yard waste” is substituted for the term “yard trash” to avoid confusion with use of the term “yard trash” in the DEP’s solid waste rules. The definition is amended to add leaves and brush, and to remove trees and tree stumps—the idea being that trees and stumps small enough to be burned in a burn-barrel or eight-foot diameter pile could be considered trimmings. Clarification is also made that the term does not include land clearing debris or residential tree cutting debris.
- **256.200(2), (4), (5), (7), (8), (15), (16), (19), and (24)** The definitions of “air pollution,” “approved fuel,” “clean dry wood,” “Department air stagnation advisory,” “excessive visible emissions,” “non-rural land clearing,” “nuisance,” “outdoor heating device” and “residential tree cutting” are deleted as no longer needed.
- **256.300(1)** Language is amended to change the basic regulatory concept of the open burning rule from ‘any open burning not specifically allowed by this rule is prohibited’ to ‘no person shall engage in any open burning activities that are specifically prohibited by this rule.’ The language affirming the authority of the DOF and other authorized fire control agencies to extinguish unlawful open burning is deleted, as well as the language requiring the person responsible for the unlawful open burning to bear the costs involved in extinguishing the fire, since these provisions are not enforceable by DEP.
- **256.300(2)(a)** Language related to the prohibition on open burning of certain materials is amended to add biological waste, hazardous waste, asbestos-containing materials, mercury-containing devices, pharmaceuticals, used oil, and treated wood.
- **256.300(2)(b)** Language is added to make reference to the specific exceptions from paragraph 62-256.300(3)(a), F.A.C., given at subsections 62-256.700(4) through (7), F.A.C.
- **256.300(2)(c)** Language is added to prohibit open burning of vegetative debris and untreated wood, except as provided at section 62-256.700, F.A.C., or subsection 62-296.320(3), F.A.C.
- **256.300(4)** The language pertaining to the operating requirements for air curtain incinerators burning land clearing debris is deleted from this rule, since all such requirements are more efficiently addressed at subsections 62-210.300(3) and 62-296.401(7), F.A.C. The provisions of the rule that allow for land clearing debris to be transported offsite to be burned in an air curtain incinerator are covered by new subsection 62-256.700(3), F.A.C., which specifically requires use of an air curtain incinerator unless the debris is burned onsite.
- **256.300(5)** The prohibition on open burning within 1000 feet of an airport runway is deleted since it relates to a safety hazard more appropriately handled by the aviation authority or other law enforcement agencies. The language that reaffirms the authority of the DOF and other authorized fire control agencies to extinguish unlawful open burning within 1000 feet of an active runway is deleted since it is not enforceable by the DEP.
- **256.300(6)** The language stating that the DEP may suspend open burning in particulate and ozone nonattainment areas or in the area of influence when it determines that the ambient air concentration of these pollutants may exceed the standards is deleted, as sufficient authority for suspending open burning anywhere in the state is already provided by the subsequent subsection (current subsection 62-256.300(7), F.A.C.).
- **256.300(3)(7)** Language is amended to delete the concept of a “Department Air Stagnation Advisory.” This concept has seldom been used and is not needed since the remaining rule, which allows the DEP to call for restrictions on open burning in the case of a National Weather Service stagnation advisory, air pollution episode, or determination by the DOF that conditions are unfavorable for safe burning, is sufficient. Language is added to clarify that the prohibition on open burning during adverse conditions extends to use of a portable air curtain incinerator.
- **256.300(8)** Language prohibiting open burning which reduces visibility to less than 1,000 feet on public roadways is deleted since it is not enforceable by the DEP. This safety hazard is more appropriately handled by the Highway Patrol or other law enforcement agencies.

- **256.300(4)(9)** For grammatical consistency, a title phrase is added, and the language is amended to clarify that nothing in this chapter relieves any person from complying with other applicable laws, rules, and ordinances, including Chapter 590, F.S., and DOF rules.
- **256.700(1)** Currently, this subsection allows open pile burning to reduce yard waste and household paper products generated on residential premises in “ozone attainment areas” to be conducted under specific conditions. The reference to “ozone attainment areas” is deleted because all of the state is attainment for the new 8-hour ozone standard. The language allowing the open pile burning of household paper products is deleted because it runs counter to the DEP’s responsibility to encourage recycling, and it compromises the message that household garbage should never be open-burned.
- **256.700(1)(a)1.-7.** Current paragraphs 62-256.700(1)(a) through (h), F.A.C., are renumbered and reorganized as subparagraphs 62-256.700(1)(a)1. through 7., F.A.C., and their content is amended. The language at current paragraphs 62-256.700(1)(a), (b), and (c), F.A.C., prohibiting the creation of a “nuisance” is deleted as unenforceable. The different setback distances for different groups of counties at current paragraphs 62-256.700(1)(a) and (b), F.A.C., are reduced to a single set of distances for all counties (25 feet from wildlands, brush, or combustible structure, 50 feet from any paved public road, and 150 feet from any offsite occupied building). These setback distances, along with those at current paragraphs 62-256.700(1)(d) and (h), F.A.C., are consolidated at new subparagraph 62-256.700(1)(a)5., F.A.C. The prohibition on nighttime burning at current paragraph 62-256.700(1)(b), F.A.C., is retained at subparagraph 62-256.700(1)(a)3., F.A.C., and amended to also include a prohibition on burning during windy conditions. The requirement of current paragraph 62-256.700(1)(h), F.A.C., that the fire be covered by a metal mesh or grill is deleted as unnecessary, but a provision is added at subparagraph 62-256.700(1)(a)4., F.A.C., limiting the pile size to no greater than eight feet in diameter. All of the restrictions and limitations on the burning of yard waste are intended to prevent air pollution by reducing the risk of unintended fires and the build-up of excessive ground-level smoke.
- **256.700(1)(b)** Language is added to clarify that, except as provided at paragraph 62-256.700(1)(a), F.A.C., and subsections 62-256.700(8) & (9), F.A.C., yard waste shall be burned in a DEP-permitted air curtain incinerator (not a temporary, exempt unit).
- **256.700(2)** Current language related to burning yard waste in ozone nonattainment and maintenance areas is deleted, and new language related to the burning of tree cutting debris is added.

(The current language of this subsection is deleted as unenforceable and unnecessary. It essentially prohibits open burning to reduce yard waste and household paper products generated on residential premises in ozone nonattainment or maintenance areas, except where a solid waste collection service is not available and prior authorization is received from the department. The DEP does not have statutory authority to grant such authorizations except through issuance of a permit or order, which would not be practical. By deleting this provision, the DEP, in effect, is authorizing open pile burning of yard waste in accordance with the provisions of subsection 62-256.700(1), F.A.C., on a statewide basis. However, this does not preclude local governments from adopting and enforcing stricter requirements in their areas of jurisdiction. Currently, this provision applies only in the seven ozone maintenance areas, all of which have local air pollution control programs that are able to regulate open burning under their own ordinances.)

New language is adopted for burning tree cutting debris, replacing the current provisions for residential land clearing open burning at Rule 62-256.500, F.A.C.

- **256.700(2)(a)1.** Language is added limiting the open pile burning of tree cutting debris to debris that was generated on residential premises of not more than two family units
- **256.700(2)(a)2.** Language is added clarifying that any open pile burning of tree cutting debris is restricted to the site where the debris was generated.

- **256.700(2)(a)3.** Language is added limiting the hours during which open pile burning of tree cutting debris may be conducted, thereby reducing the possibility of nighttime build-up of excessive ground-level smoke.
- **256.700(2)(a)4.** Language is added requiring that the fire be attended and that fire extinguishing equipment be available.
- **256.700(2)(a)5.** Language is added requiring that the moisture content and composition of the material to be burned is favorable to good burning which will minimize smoke.
- **256.700(2)(a)6.** Language is added requiring that the person responsible for the burn contact the DOF regarding the planned burning activity.
- **256.700(2)(b)** Language is added to clarify that, except as provided at paragraph 62-256.700(2)(a), F.A.C., and subsections 62-256.700(8) & (9), F.A.C., tree cutting debris shall be burned in a DEP-permitted air curtain incinerator (not a temporary, exempt unit).
- **256.700(3)** Current language related to recreational open burning is deleted, and new language related to the burning of land clearing debris is added. (Amended language related to recreational open burning is added at subsection 62-256.700(10), F.A.C.) The new language at this subsection replaces the current provisions for non-rural land-clearing burning at Rule 62-256.500, F.A.C. It eliminates any different requirements for the pile burning of “rural” and “non-rural” land clearing debris as currently provided. All permitting and operating requirements on the use of offsite air curtain incinerators for burning land clearing debris are deleted from this rule since all such requirements are addressed at subsection 62-210.300(3), F.A.C., for temporary, exempt air curtain incinerators, and 62-296.401(7), F.A.C., for stationary units.
- **256.700(3)(a)1.** Language is added clarifying that any open pile burning of land clearing debris is restricted to the site where the debris was generated. This provision is readopted from subsection 62-256.300(4), F.A.C.
- **256.700(3)(a)2.** Language is added limiting the hours during which open pile burning of land clearing debris may be conducted, thereby reducing the possibility of nighttime build-up of excessive ground-level smoke.
- **256.700(3)(a)3.** Language is added requiring that the fire be attended and that fire extinguishing equipment be available.
- **256.700(3)(a)4.** Language is added requiring that the moisture content and composition of the material to be burned is favorable to good burning which will minimize smoke.
- **256.700(3)(a)5.** Language is added requiring that the person responsible for the burn contact the DOF regarding the planned burning activity.
- **256.700(3)(b)** Language is added to clarify that, except as provided at paragraph 62-256.700(3)(a), F.A.C., land clearing debris shall be burned in an exempt or permitted air curtain incinerator.
- **256.700(4)** The current language of this subsection, relating to the use of flares for safety reasons, is deleted as inappropriate to Chapter 62-256, F.A.C.
- **256.700(4)(5)(a)** Language related to open burning for the training of fire fighters is amended to clarify that burning activities at Fire Marshal-certified fire training centers are allowed provided no asbestos-containing materials, mercury-containing devices, or hazardous waste is burned.
- **256.700(4)(5)(b)1.-5.** Language related to the open burning of structures not located at fire training centers is amended to change “conducted by a municipal fire control agency” to “conducted under the auspices of a certified training center or by an organized fire department recognized by the Division of State Fire Marshal” and to add the requirement for supervision by a certified fire training instructor. The reference to the National Fire Protection Association document (NFPA 1403) is updated, and language is added to clarify that compliance with any applicable asbestos NESHAP

provisions is required. Language is also added to require the removal of certain materials prior to burning and to require that at least 10 business days advance notification be given to the DOF and DEP. There is no requirement for DEP authorization of the burning exercise.

- **256.700(5)** The title, “Open Burning of Waste Pesticide Containers,” is added to the subsection. The nuisance-oriented language at current sub-subparagraph 62-256.700(6)(e)1., F.A.C., is deleted as well as the redundant language at sub-subparagraph 62-256.700(6)(e)6., F.A.C.
- **256.700(6)** Language is added to allow burning for destruction of animal carcasses in an emergency where the need for such action has been determined by the DACS. Such burning must be conducted using an exempt or permitted air curtain incinerator.
- **256.700(7)** Language is added to clarify that the open burning of certain materials used in agricultural operations is allowed in accordance with section 403.707(2)(e), F.S.; specifically, polyethylene plastic mulch, damaged, untreated wood pallets, and packing material that cannot feasibly be recycled. Language is also added to clarify that agricultural burning conducted under the authority of DACS is not regulated under this chapter.
- **256.700(8)** Language is added to allow the municipal or county government responsible for storm clean-up activities, or its agents, to burn storm-generated debris consisting only of vegetative debris and untreated wood in an exempt or permitted air curtain incinerator or under the DOF’s pile burning authority. Written notice to the department of any such burning activity shall be provided no later than 10 days after the start of the burning.
- **256.700(9)** Language is added to allow open burning for destruction of disease-infested vegetation on an emergency basis where the need for such action has been determined by the DOF. Such burning may be conducted in an exempt or permitted air curtain incinerator or under the DOF’s pile burning authority.
- **256.700(10)** Language is added clarifying that nothing in this chapter shall be construed to prohibit the open burning of vegetative debris and untreated wood in a campfire, outdoor fireplace, ceremonial bonfire, or other contained outdoor heating or cooking device, or on cold days for warming of outdoor workers.

Portions of Chapter 62-256, F.A.C., Eliminated

- **256.100 Declaration and Intent.** – Section is repealed; no portions are readopted elsewhere.
- **256.200 Definitions.** – The following definitions are deleted:
 - (2) Air pollution
 - (4) Approved fuel
 - (5) Clean dry wood (*Replaced by “untreated wood,” the antonym of “treated wood”*)
 - (7) Department air stagnation advisory
 - (8) Excessive visible emissions
 - (15) Non-rural land clearing
 - (16) Nuisance
 - (19) Outdoor heating device
 - (21) Residential land clearing (*Replaced by use of the term “tree cutting debris”*)
- **256.300 Prohibitions** – The following provisions are deleted:
 - (2) A cross-reference to cold or frost protection provisions.
 - (4) Permitting exemption and operating requirements for offsite air curtain incinerators. (*Addressed at Rules 62-210.300(3) and 62-296.401(7), F.A.C.*)
 - (5) Prohibition on open burning within 1,000 feet of an airport runway.
 - (6) Temporary suspension of open burning in nonattainment areas.
 - (8) Prohibition on open burning which reduces visibility on roadways.
- **256.400 Agricultural and Silvicultural Fires.** – Section is repealed; no portions are readopted elsewhere. (*Previously transferred to Chapter 5I-2, F.A.C.*)
- **256.450 Burning for Cold or Frost Protection.** – Section is repealed; no portions are readopted elsewhere. (*Only remaining restrictions become no burning of prohibited materials and no burning during adverse weather conditions.*)
- **256.500 Land Clearing.** – Section is repealed; some portions are readopted at revised subsection 62-256.700(3), F.A.C.
- **256.600 Industrial, Commercial, Municipal, and Research Open Burning.** – Section is repealed; (*Most provisions were previously readopted at subsection 62-296.320(3), F.A.C.*)
- **256.700 Open Burning Allowed.** – The following provisions are deleted:
 - (1) The currently-allowed burning of household paper products, and the nuisance-related conditions for yard waste burning in ozone attainment areas, including stricter setback requirements for certain larger counties.
 - (2) The currently-allowed burning of household paper products, and the nuisance-related conditions for yard waste burning in ozone nonattainment and maintenance areas, including the requirement for prior department approval.
 - (4) Safety flaring of waste gases. (*To be considered for permitting exemption at Rule 62-210.300, F.A.C., rather than as type of open burning.*)
- **256.800 Effective Date.** – Section is repealed; obsolete.

List of Amendments to Chapter 62-210, F.A.C.

The amendments to Rules 62-210.200 & .300, F.A.C., are shown in the Rule Amendments document in strike-through/underline format. A summary list of the amendments follows.

- **210.200(40)** The definition of “Biological Waste Incinerator” is amended to clarify that the term does not include any air curtain incinerator used or authorized by the Department of Agriculture and Consumer Services for the emergency disposal of animal carcasses.
- **210.200(~~64~~)** The definition of “Clean Dry Wood” is deleted and replaced with the more intuitive term “Untreated Wood” at subsection 62-210.200(272), F.A.C. Untreated wood refers to the type of wood allowed to be burned in an air curtain incinerator.
- **210.200(144)(~~145~~)** The definition of “Land Clearing Debris” is amended to include untreated wood generated by a land clearing operation (e.g., old fence posts).
- **210.200(145)(~~146~~)** The definition of “Land Clearing Operation” is revised for better clarity and amended to add “mineral operations,” consistent with the Division of Forestry (DOF) definition of the same term at Chapter 5I-2, F.A.C.
- **210.200(272)** The term “Untreated Wood” is added to replace the current term “Clean Dry Wood.” The definition is consistent with the term “Clean Dry Wood,” with the addition of glue, filler, and chromated copper arsenate (CCA) as prohibited components.
- **210.200(283)** The term “Yard Waste” is substituted for the term “Yard Trash” to avoid confusion with use of the term “yard trash” in the DEP’s solid waste rules. The definition is amended to add leaves and brush, and to remove trees and tree stumps—the idea being that trees and stumps small enough to be burned in a burn-barrel or eight-foot diameter pile could be considered trimmings.
- **210.300(3)(a)19.** The exemption is titled “Portable Air Curtain Incinerators,” and language is added to introduce the specific conditions of exemption that follow in subparagraphs 62-210.300(3)(a)19. a. through m., F.A.C.
- **210.300(3)(a)19.a.** Restrictions on the materials allowed to be burned in an exempt air curtain incinerator are clarified, consistent with the current rule and section 62-256.300, F.A.C. Specifically, only land clearing debris shall be allowed to be burned in an exempt air curtain incinerator, except as provided at subparagraph 62-210.300(3)(a)19.c., F.A.C., for emergency disposal of animal carcasses, storm-generated debris, and insect or disease-infested vegetation. Language is also added to specify the materials allowed to be used to ignite the fire in an air curtain incinerator.
- **210.300(3)(a)19.b.** The exemption is made unavailable to any air curtain incinerator that would be deployed at a single site for more than six months in any 12-month period or that would burn anything other than materials generated at the site or any other site under control of the same person. An exception is provided at subparagraph 62-210.300(3)(a)19.c., F.A.C., for emergency disposal of animal carcasses, storm-generated debris, and insect or disease-infested vegetation.
- **210.300(3)(a)19.c.** An exception to the provisions of subparagraphs 62-210.300(3)(a)19.a. & b., F.A.C., is provided to allow the use of an exempt air curtain incinerator for up to six months at a time at any location for the disposal of animal carcasses, storm-generated debris, and insect or disease-infested vegetation, provided such use is conducted in accordance with applicable provisions of Chapter 62-256, F.A.C. When burning animal carcasses, untreated wood may also be burned to maintain good combustion.
- **210.300(3)(a)19.d.b.** Criteria for construction and maintenance of the air curtain incinerator’s pit are retained, consistent with current subparagraph 62-210.300(3)(a)19.b., F.A.C. Language is added to clarify that, in the case of trench burners, vertical walls must be maintained on all sides.
- **210.300(3)(a)19.e.e.** The prohibition on overloading the air curtain incinerator is retained, consistent with current subparagraph 62-210.300(3)(a)19.c., F.A.C., but reworded slightly.

- **210.300(3)(a)19.f.** A requirement prohibiting the build-up of excessive ash in the pit of an air curtain incinerator is established, consistent with current subsection 62-296.401(7), F.A.C.
- **210.300(3)(a)19.g.d.** A steady-state opacity limit of 10%, six-minute average, for exempt air curtain incinerators is established, consistent with the opacity limit required by 40 CFR 60, Subparts AAAA, BBBB, CCCC, and DDDD. A 35% opacity limit is established for periods of startup, not to exceed 30 minutes in duration, also consistent with the federal rules.
- **210.300(3)(a)19.h.** A requirement is established that the incinerator be attended at all times while burning is being conducted or flames are visible within the incinerator, consistent with current paragraph 62-256.500(1)(d), F.A.C.
- **210.300(3)(a)19.i.e.** The requirements of current sub-subparagraph 62-210.300(3)(a)19.e., F.A.C., are amended to add a 50-foot setback from wildlands, brush, combustible structure or paved public roadway to reduce the possibility of fire spreading to such areas (including roadway shoulder areas), thereby creating unintended air pollution. The differing setbacks for refractory-lined and non-refractory-lined air curtain incinerators are deleted as unnecessary.
- **210.300(3)(a)19.j.f.** Operating-hour restrictions are amended to allow non-refractory lined air curtain incinerators to begin charging at 8:00 a.m. Central time or 9:00 a.m. Eastern time, and refractory lined units to begin at sunrise, consistent with current sub-subparagraph 62-210.300(3)(a)19.f., F.A.C., except that the extra setback distance for sunrise-to-sunset operation of a refractory-lined air curtain incinerator is deleted as unnecessary. Also, the required ending time for charging is changed to one hour after sunset for both types of incinerators. These changes better align the allowed operating hours with the hours during which meteorological conditions are generally favorable for burning. In addition, the unenforceable language related to nuisance situations is deleted. The requirement that a refractory-lined air curtain incinerator also have forced underdraft air is deleted as unnecessary. Language is added clarifying that air flow must be maintained until all material within the air curtain incinerator has been reduced to coals. Language is also added requiring that a log be maintained of hours of charging.
- **210.300(3)(a)19.k.** Language is added clarifying that the owner or operator of an exempt air curtain incinerator must contact the Division of Forestry (DOF) regarding the planned burning activity.
- **210.300(3)(a)19.l.** Language is added requiring the owner of an exempt air curtain incinerator to provide any person to whom the owner would grant authority to use the incinerator with a copy of the requirements applicable to air curtain incinerator operations.
- **210.300(3)(a)19.m.** Language is added clarifying that portable air curtain incinerators operated as temporary units in compliance with the conditions of this exemption are not subject to certain federal and state rules—specifically, the testing, reporting and recordkeeping requirements of 40 CFR 60, Subparts AAAA, BBBB, CCCC, and DDDD, and the provisions of subsection 62-296.401(7), F.A.C., that would otherwise apply to air curtain incinerators.