

2014

FLORIDA'S FOREST FIRE LAWS AND OPEN BURNING REGULATIONS



Florida Forest Service

<http://www.FloridaForestService.com>



**Florida Department of
Agriculture and Consumer Services**

Adam H. Putnam, Commissioner

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**Table of Contents
FLORIDA STATUTES
[Excerpted]**

CHAPTER	TITLE	PAGE NUMBER
	MISSION OF THE FLORIDA FOREST SERVICE, FOREST PROTECTION.....	3
590.01	WILDFIRE PROTECTION.	5
590.015	DEFINITIONS.....	5
590.02	FLORIDA FOREST SERVICE; POWERS, AUTHORITY, AND DUTIES; LIABILITY; BUILDING STRUCTURES; WITHLACOOCHEE TRAINING CENTER.....	5
590.081	SEVERE DROUGHT CONDITIONS; BURNING PROHIBITED.....	9
590.082	EXTRAORDINARY FIRE HAZARD; CERTAIN ACTS MADE UNLAWFUL; PROCLAMATIONS BY THE GOVERNOR.....	9
590.10	DISPOSING OF LIGHTED SUBSTANCES, ETC.....	10
590.11	RECREATIONAL FIRES	10
590.125	OPEN BURNING AUTHORIZED BY THE FLORIDA FOREST SERVICE	10
590.13	CIVIL LIABILITY.....	16
590.14	NOTICE OF VIOLATION; PENALTIES; LEGISLATIVE INTENT.....	17
590.15	BURDEN OF PROOF.	18
590.16	REWARDS.....	18
590.25	PENALTY FOR OBSTRUCTING THE PREVENTION, DETECTION, OR SUPPRESSION OF WILDFIRES.....	18
590.27	PENALTY FOR MUTILATING OR DESTROYING FORESTRY OR FIRE CONTROL SIGNS AND POSTERS.	18
590.28	INTENTIONAL OR RECKLESS BURNING OF LANDS.	18
590.29	ILLEGAL POSSESSION OF INCENDIARY DEVICE	19
590.31	SOUTHEASTERN INTERSTATE FOREST FIRE PROTECTION COMPACT	19
590.32	COMPACT; EFFECTIVE DATE; RATIFICATION	19
590.33	STATE COMPACT ADMINISTRATOR; COMPACT ADVISORY COMMITTEE	19
590.34	STATE COMPACT ADMINISTRATOR AND COMPACT ADVISORY COMMITTEE MEMBERS; POWERS; AID FROM OTHER STATE AGENCIES	19
590.35	CONSTRUCTION OF SS. 590.31-590.34.....	19
590.42	FEDERALLY FUNDED FIRE PROTECTION ASSISTANCE PROGRAMS.....	20

590.61	FORESTRY ARSON ALERT PROGRAM.	20
823.02	BUILDING BONFIRES.....	20
823.041	DISPOSAL OF BODIES OF DEAD ANIMALS; PENALTY.	20
877.15	FAILURE TO CONTROL OR REPORT DANGEROUS FIRE.....	21
403.707	PERMITS.....	21
5I-2.003	DEFINITIONS.....	22
5I-2.004	OPEN BURNING NOT ALLOWED.....	25
5I-2.006	OPEN BURNING ALLOWED.	26
62-256.200	DEFINITIONS.....	36
62-256.300	PROHIBITIONS.....	38
62-256.700	OPEN BURNING ALLOWED.	39

Florida Forest Service

Our Mission

Protect Florida and its people from the dangers of wildland fire and manage the forest resources through a stewardship ethic to assure they are available for future generations.

Our Vision

Accomplish our mission with the key value of earning the public trust through serving people. The Florida Forest Service envisions a leadership role to ensure that natural resources will be managed in a way that perpetuates their special character and meets the changing social and economic needs of the people who live and visit here. It will assume a strong advocacy role for public safety to meet the challenges of wildland fires facing Florida.

Strategic Goals

- ❖ Provide leadership to protect forests, wildlands, and the public from the destructive effects of wildfire.
- ❖ Promote sound forest management practices, which maintain the integrity of the environment and provide for Florida's future natural resource needs.
- ❖ Educate the public about the importance of Florida's forests and promote the renewal and protection of these resources.
- ❖ Manage public lands for their unique character and to provide multiple public benefits.
- ❖ Encourage Florida's communities to establish and perpetuate their urban forests.
- ❖ Encourage family forest owners to attain their forestland management goals with guidance and technical assistance that promotes good land stewardship principles.
- ❖ Improve the quality of service through the training and development of our people – our single greatest resource. This leadership will encourage innovation, excellence and freedom for personal growth.

The Florida Forest Service will strive for excellence with a highly trained, ethical and dynamic work force.

**2014 Florida Statutes
CHAPTER 590
FOREST PROTECTION**

**CHAPTER 590
FOREST PROTECTION**

- 590.01 Wildfire protection.**
- 590.015 Definitions.**
- 590.02 Florida Forest Service; powers, authority, and duties; liability; building structures; Withlacoochee Training Center.**
- 590.081 Severe drought conditions; burning prohibited.**
- 590.082 Extraordinary fire hazard; certain acts made unlawful; proclamations by the Governor.**
- 590.10 Disposing of lighted substances, etc.**
- 590.11 Recreational fires.**
- 590.125 Open burning authorized by the Florida Forest Service.**
- 590.13 Civil liability.**
- 590.14 Notice of violation; penalties; legislative intent.**
- 590.15 Burden of proof.**
- 590.16 Rewards.**
- 590.25 Penalty for obstructing the prevention, detection, or suppression of wildfires.**
- 590.27 Penalty for mutilating or destroying forestry or fire control signs and posters.**
- 590.28 Intentional or reckless burning of lands.**
- 590.29 Illegal possession of incendiary device.**
- 590.31 Southeastern Interstate Forest Fire Protection Compact.**
- 590.32 Compact; effective date; ratification.**
- 590.33 State compact administrator; compact advisory committee.**
- 590.34 State compact administrator and compact advisory committee members; powers; aid from other state agencies.**
- 590.35 Construction of ss. 590.31-590.34.**
- 590.42 Federally funded fire protection assistance programs.**
- 590.61 Forestry arson alert program.**

590.01 WILDFIRE PROTECTION.—The Florida Forest Service has the primary responsibility for prevention, detection, and suppression of wildfires wherever they may occur. The Florida Forest Service shall provide leadership and direction in the evaluation, coordination, allocation of resources, and monitoring of wildfire management and protection. The Florida Forest Service shall promote natural resource management and fuel reduction through the use of prescribed fire and other fuel reduction measures.

History.—s. 2, ch. 17029, 1935; CGL 1936 Supp. 4151(10-hh); ss. 14, 35, ch. 69-106; s. 8, ch. 97-220; s. 1, ch. 99-292; s. 56, ch. 2012-7.

590.015 DEFINITIONS.—As used in this chapter, the term:

- (1) **“Broadcast burning”** means the burning of agricultural or natural vegetation by allowing fire to move across a predetermined area of land. The term does not include the burning of vegetative debris that is piled or stacked.
- (2) **“Fire management services”** means presuppression fireline plowing, prescribed burning assistance, contract prescribed burning, prescribed and wildfire management training, and other activities associated with prevention, detection, and suppression of wildfires.
- (3) **“Fuel reduction”** means the application of techniques that reduce vegetative fuels, and may include prescribed burning, manual and mechanical clearing, and the use of herbicides.
- (4) **“Open burning”** means any outdoor fire or open combustion of material that produces visible emissions.
- (5) **“Wildfire”** means any vegetative fire that threatens to destroy life, property, or natural resources.
- (6) **“Wild land”** means any public or private managed or unmanaged forest, urban/interface, pasture or range land, recreation lands, or any other land at risk of wildfire.

History.—s. 2, ch. 99-292; s. 31, ch. 2000-308; ss. 54, 71, ch. 2011-206; s. 57, ch. 2012-7.

590.02 FLORIDA FOREST SERVICE; POWERS, AUTHORITY, AND DUTIES; LIABILITY; BUILDING STRUCTURES; WITHLACOOCHEE TRAINING CENTER.—

- (1) The Florida Forest Service has the following powers, authority, and duties:
 - (a) To enforce the provisions of this chapter;
 - (b) To prevent, detect, and suppress wildfires wherever they may occur on public or private land in this state and to do all things necessary in the exercise of such powers, authority, and duties;
 - (c) To provide firefighting crews, who shall be under the control and direction of the Florida Forest Service and its designated agents;

- (d) To appoint center managers, forest area supervisors, forestry program administrators, a forest protection bureau chief, a forest protection assistant bureau chief, a field operations bureau chief, deputy chiefs of field operations, district managers, forest operations administrators, senior forest rangers, investigators, forest rangers, firefighter rotorcraft pilots, and other employees who may, at the Florida Forest Service's discretion, be certified as forestry firefighters pursuant to s. 633.408(8). Other law notwithstanding, center managers, district managers, forest protection assistant bureau chief, and deputy chiefs of field operations shall have Selected Exempt Service status in the state personnel designation;
 - (e) To develop a training curriculum for forestry firefighters which must contain the basic volunteer structural fire training course approved by the Florida State Fire College of the Division of State Fire Marshal and a minimum of 250 hours of wildfire training;
 - (f) To make rules to accomplish the purposes of this chapter;
 - (g) To provide fire management services and emergency response assistance and to set and charge reasonable fees for performance of those services. Moneys collected from such fees shall be deposited into the Incidental Trust Fund of the Florida Forest Service;
 - (h) To require all state, regional, and local government agencies operating aircraft in the vicinity of an ongoing wildfire to operate in compliance with the applicable state Wildfire Aviation Plan; and
 - (i) To authorize broadcast burning, prescribed burning, pile burning, and land clearing debris burning to carry out the duties of this chapter and the rules adopted thereunder.
- (2) The Florida Forest Service's employees, and the firefighting crews under their control and direction, may enter upon any lands for the purpose of preventing, detecting, and suppressing wildfires and investigating smoke complaints or open burning not in compliance with authorization and to enforce the provisions of this chapter.
- (3) Employees of the Florida Forest Service and of federal, state, and local agencies, and all other persons and entities that are under contract or agreement with the Florida Forest Service to assist in firefighting operations as well as those entities, called upon by the Florida Forest Service to assist in firefighting may, in the performance of their duties, set counterfires, remove fences and other obstacles, dig trenches, cut firelines, use water from public and private sources, and carry on all other customary activities in the fighting of wildfires without incurring liability to any person or entity. The manner in which the Florida Forest Service monitors a smoldering wildfire or smoldering prescribed fire or fights any wildfire are planning level activities for which sovereign immunity applies and is not waived.

- (4) (a) The department may build structures, notwithstanding chapters 216 and 255, not to exceed a cost of \$50,000 per structure from existing resources on forest lands, federal excess property, and unneeded existing structures. These structures must meet all applicable building codes.
- (b) Notwithstanding s. 553.80(1), the department shall exclusively enforce the Florida Building Code as it pertains to wildfire and law enforcement facilities under the jurisdiction of the department.
- (5) The Florida Forest Service shall organize its operational units to most effectively prevent, detect, and suppress wildfires, and to that end, may employ the necessary personnel to manage its activities in each unit. The Florida Forest Service may construct lookout towers, roads, bridges, firelines, and other facilities and may purchase or fabricate tools, supplies, and equipment for firefighting. The Florida Forest Service may reimburse the public and private entities that it engages to assist in the suppression of wildfires for their personnel and equipment, including aircraft.
- (6) The Florida Forest Service shall undertake privatization alternatives for fire prevention activities including constructing fire lines and conducting prescribed burns and, where appropriate, entering into agreements or contracts with the private sector to perform such activities.
- (7) The Florida Forest Service may organize, staff, equip, and operate the Withlacoochee Training Center. The center shall serve as a site where fire and forest resource managers can obtain current knowledge, techniques, skills, and theory as they relate to their respective disciplines.
 - (a) The center may establish cooperative efforts involving federal, state, and local entities; hire appropriate personnel; and engage others by contract or agreement with or without compensation to assist in carrying out the training and operations of the center.
 - (b) The center shall provide wildfire suppression training opportunities for rural fire departments, volunteer fire departments, and other local fire response units.
 - (c) The center shall focus on curriculum related to, but not limited to, fuel reduction, an incident management system, prescribed burning certification, multiple-use land management, water quality, forest health, environmental education, and wildfire suppression training for structural firefighters.
 - (d) The center may assess appropriate fees for food, lodging, travel, course materials, and supplies in order to meet its operational costs and may grant free meals, room, and scholarships to persons and other entities in exchange for instructional assistance.
- (8) (a) The Cross City Work Center shall be named the L. Earl Peterson Forestry Station. This is to honor Mr. L. Earl Peterson, Florida's sixth state forester,

whose distinguished career in state government has spanned 44 years, and who is a native of Dixie County.

- (b) The Madison Forestry Station shall be named the Harvey Greene, Sr. Forestry Station. This is to honor Mr. Harvey Greene, Sr., a World War I veteran and pioneer in forestry in Madison County. In 1947, Mr. Harvey Greene, Sr., offered to give the land on which the forestry station is located to the state; however, at that time, the state could not accept donations of land. Instead, Mr. Harvey Greene, Sr., sold the land to the state and, with the proceeds of the sale, purchased forestry equipment to be used by the citizens of Madison County to plant trees and fight wildfires.
- (9) (a) Notwithstanding ss. 273.055 and 287.16, the department may retain, transfer, warehouse, bid, destroy, scrap, or otherwise dispose of surplus equipment and vehicles that are used for wildland firefighting.
- (b) All money received from the disposition of state-owned equipment and vehicles that are used for wildland firefighting shall be retained by the department. Money received pursuant to this section is appropriated for and may be disbursed for the acquisition of exchange and surplus equipment used for wildland firefighting, and for all necessary operating expenditures related to such equipment, in the same fiscal year and the fiscal year following the disposition. The department shall maintain records of the accounts into which the money is deposited.
- (10)(a) Notwithstanding the provisions of s. 252.38, the Florida Forest Service has exclusive authority to require and issue authorizations for broadcast burning and agricultural and silvicultural pile burning. An agency, commission, department, county, municipality, or other political subdivision of the state may not adopt or enforce laws, regulations, rules, or policies pertaining to broadcast burning or agricultural and silvicultural pile burning.
- (b) The Florida Forest Service may delegate to a county, municipality, or special district its authority:
 - 1. As delegated by the Department of Environmental Protection pursuant to ss. 403.061(28) and 403.081, to manage and enforce regulations pertaining to the burning of yard trash in accordance with s. 590.125(6).
 - 2. To manage the open burning of land clearing debris in accordance with s. 590.125.

History.—s. 14, ch. 17029, 1935; CGL 1936 Supp. 4151(10-ss); s. 1, ch. 26915, 1951; s. 1, ch. 57-55; ss. 2, 3, ch. 67-371; ss. 14, 31, 35, ch. 69-106; s. 1, ch. 77-70; s. 1, ch. 79-91; s. 142, ch. 79-190; s. 231, ch. 79-400; s. 1, ch. 80-40; s. 1, ch. 81-111; s. 2, ch. 83-178; s. 2, ch. 86-59; s. 3, ch. 88-321; s. 1, ch. 92-187; s. 8, ch. 92-290; s. 103, ch. 92-291; s. 23, ch. 96-231; s. 9, ch. 97-220; s. 3, ch. 99-292; s. 76, ch. 2000-154; s. 27, ch. 2000-197; s. 39, ch. 2002-295; s. 55, ch. 2011-206; s. 58, ch. 2012-7; s. 45, ch. 2012-190; s. 151, ch. 2013-183; s. 23, ch. 2013-226. s. 131, ch. 2014-17; s. 148, ch. 2014-150.

590.081 SEVERE DROUGHT CONDITIONS; BURNING PROHIBITED.—

- (1) The Commissioner of Agriculture may declare a severe drought emergency to exist and describe the general boundaries of the area affected.
- (2) Any declaration by the Commissioner of Agriculture under authority of this section shall be effective immediately upon being filed with the Department of State and shall remain in full force and effect until conditions warrant a revocation. In order to end the declaration, the commissioner must file a revocation of the declaration with the Department of State.
- (3) It is unlawful for any person to set fire to, or cause fire to be set to, any wild lands or to build a campfire or bonfire or to burn trash or other debris within the designated area of a severe drought emergency unless a written permit is obtained from the Florida Forest Service or its designated agent.
- (4) Any person violating any of the provisions of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—ss. 1-5, ch. 57-246; ss. 14, 35, ch. 69-106; s. 1, ch. 71-64; s. 614, ch. 71-136; s. 1, ch. 75-264; s. 4, ch. 99-292; s. 59, ch. 2012-7.

590.082 EXTRAORDINARY FIRE HAZARD; CERTAIN ACTS MADE UNLAWFUL; PROCLAMATIONS BY THE GOVERNOR.—

- (1) When the Commissioner of Agriculture has declared a severe drought emergency to exist and described the general boundaries of the area affected as prescribed in s. 590.081 and the drought emergency continues until the wild lands become so dry or parched as to create an extraordinary fire hazard, the commissioner will advise the Governor that because of prolonged severe drought conditions an extraordinary fire hazard that could endanger life or property exists on wild lands.
- (2) The Governor may by proclamation declare an extraordinary fire hazard to exist and describe the general boundaries of the area affected. Any proclamation promulgated by the Governor under authority of this section shall be effective immediately upon filing same with the Department of State and shall remain in effect until, when conditions warrant, an order of revocation of proclamation is made by the Governor and filed with the Department of State.
- (3) It is unlawful for any person, except the owner or his or her agents, or persons with express permission of the landowner, or other persons regularly engaged in harvesting, processing, or moving forest or farm products, to enter or travel in any public or private wild land within the area described by proclamation, except on public roads or highways or on well-defined private roads.
- (4) Any person violating any of the provisions of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 71-293; s. 1, ch. 75-264; s. 955, ch. 97-103; s. 5, ch. 99-292.

590.10 DISPOSING OF LIGHTED SUBSTANCES, ETC.—

- (1) It is unlawful for any person to throw, drop, or dispose of a lighted match, cigarette, cigar, ashes, or other flaming or glowing substance, or any substance or thing which may or does cause a wildfire.
- (2) Anyone who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 11, ch. 17029, 1935; CGL 1936 Supp. 4151(10-pp); s. 7, ch. 99-292.

590.11 RECREATIONAL FIRES.—

- (1) It is unlawful for any individual or group of individuals to build a warming fire, bonfire, or campfire and leave it unattended while visible flame, smoke, or emissions exist.
- (2) Anyone who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 12, ch. 17029, 1935; CGL 1936 Supp. 4151(10-qq); s. 8, ch. 99-292; s. 40, ch. 2002-295; s. 24, ch. 2013-226.

590.125 OPEN BURNING AUTHORIZED BY THE FLORIDA FOREST SERVICE.—

- (1) **DEFINITIONS.**—As used in this section, the term:
 - (a) **“Certified pile burner”** means an individual who successfully completes the pile burning certification program of the Florida Forest Service and possesses a valid pile burner certification number.
 - (b) **“Certified pile burning”** means a pile burn conducted in accordance with a written pile burning plan by a certified pile burner.
 - (c) **“Certified prescribed burn manager”** means an individual who successfully completes the certified prescribed burning program of the Florida Forest Service and possesses a valid certification number.
 - (d) **“Certified prescribed burning”** means prescribed burning in accordance with a written prescription conducted by a certified prescribed burn manager.
 - (e) **“Contained”** means that fire and smoldering exist entirely within established or natural firebreaks.
 - (f) **“Completed”** means that for:
 1. Broadcast burning, no continued lateral movement of fire across the authorized area into entirely unburned fuels within the authorized area.
 2. Certified pile burning or pile burning, no visible flames exist.
 3. Certified pile burning or pile burning in an area designated as smoke sensitive by the Florida Forest Service, no visible flames, smoke, or emissions exist.

- (g) **“Gross negligence”** means conduct so reckless or wanting in care that it constitutes a conscious disregard or indifference to the life, safety, or rights of persons exposed to such conduct.
 - (h) **“Pile burning”** means the burning of silvicultural, agricultural, land-clearing, or tree-cutting debris originating onsite, which is stacked together in a round or linear fashion, including, but not limited to, a windrow. Pile burning authorized by the Florida Forest Service is a temporary procedure, which operates on the same site for 6 months or less.
 - (i) **“Pile burn plan”** means a written plan establishing the method of conducting a certified pile burn.
 - (j) **“Prescribed burning”** means the application of fire by broadcast burning for vegetative fuels under specified environmental conditions, while following appropriate measures to guard against the spread of fire beyond the predetermined area to accomplish the planned fire or land management objectives.
 - (k) **“Prescription”** means a written plan establishing the conditions and methods for conducting a certified prescribed burn.
 - (l) **“Smoldering”** means the continued consumption of fuels, which may emit flames and smoke, after a fire is contained.
 - (m) **“Yard trash”** means vegetative matter resulting from landscaping and yard maintenance operations and other such routine property cleanup activities. The term includes materials such as leaves, shrub trimmings, grass clippings, brush, and palm fronds.
- (2) NONCERTIFIED BURNING.—
- (a) Persons may be authorized to broadcast burn or pile burn pursuant to this subsection if:
 1. There is specific consent of the landowner or his or her designee;
 2. Authorization has been obtained from the Florida Forest Service or its designated agent before starting the burn;
 3. There are adequate firebreaks at the burn site and sufficient personnel and firefighting equipment for the containment of the fire;
 4. The fire remains within the boundary of the authorized area;
 5. The person named responsible in the burn authorization or a designee is present at the burn site until the fire is completed;
 6. The Florida Forest Service does not cancel the authorization; and
 7. The Florida Forest Service determines that air quality and fire danger are favorable for safe burning.

- (b) A new authorization is not required for smoldering that occurs within the authorized burn area unless new ignitions are conducted by the person named responsible in the burn authorization or a designee.
 - (c) Monitoring the smoldering activity of a burn does not require an additional authorization even if flames begin to spread within the authorized burn area due to ongoing smoldering.
 - (d) A person who broadcast burns or pile burns in a manner that violates this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083
- (3) CERTIFIED PRESCRIBED BURNING; LEGISLATIVE FINDINGS AND PURPOSE.—
- (a) The application of prescribed burning is a land management tool that benefits the safety of the public, the environment, and the economy of the state. The Legislature finds that:
 1. Prescribed burning reduces vegetative fuels within wild land areas. Reduction of the fuel load reduces the risk and severity of wildfire, thereby reducing the threat of loss of life and property, particularly in urban areas.
 2. Most of Florida's natural communities require periodic fire for maintenance of their ecological integrity. Prescribed burning is essential to the perpetuation, restoration, and management of many plant and animal communities. Significant loss of the state's biological diversity will occur if fire is excluded from fire-dependent systems.
 3. Forestland and rangeland constitute significant economic, biological, and aesthetic resources of statewide importance. Prescribed burning on forestland prepares sites for reforestation, removes undesirable competing vegetation, expedites nutrient cycling, and controls or eliminates certain forest pathogens. On rangeland, prescribed burning improves the quality and quantity of herbaceous vegetation necessary for livestock production.
 4. The state purchased hundreds of thousands of acres of land for parks, preserves, wildlife management areas, forests, and other public purposes. The use of prescribed burning for management of public lands is essential to maintain the specific resource values for which these lands were acquired.
 5. A public education program is necessary to make citizens and visitors aware of the public safety, resource, and economic benefits of prescribed burning.
 6. Proper training in the use of prescribed burning is necessary to ensure maximum benefits and protection for the public.
 7. As Florida's population continues to grow, pressures from liability issues and nuisance complaints inhibit the use of prescribed burning. Therefore,

the Florida Forest Service is urged to maximize the opportunities for prescribed burning conducted during its daytime and nighttime authorization process.

- (b) Certified prescribed burning pertains only to broadcast burning for purposes of silviculture, wildland fire hazard reduction, wildlife management, ecological maintenance and restoration, and agriculture. It must be conducted in accordance with this subsection and:
1. May be accomplished only when a certified prescribed burn manager is present on site with a copy of the prescription and directly supervises the certified prescribed burn until the burn is completed, after which the certified prescribed burn manager is not required to be present.
 2. Requires that a written prescription be prepared before receiving authorization to burn from the Florida Forest Service.
 - a. A new prescription or authorization is not required for smoldering that occurs within the authorized burn area unless new ignitions are conducted by the certified prescribed burn manager.
 - b. Monitoring the smoldering activity of a certified prescribed burn does not require a prescription or an additional authorization even if flames begin to spread within the authorized burn area due to ongoing smoldering.
 3. Requires that the specific consent of the landowner or his or her designee be obtained before requesting an authorization.
 4. Requires that an authorization to burn be obtained from the Florida Forest Service before igniting the burn.
 5. Requires that there be adequate firebreaks at the burn site and sufficient personnel and firefighting equipment to contain the fire within the authorized burn area.
 - a. Fire spreading outside the authorized burn area on the day of the certified prescribed burn ignition does not constitute conclusive proof of inadequate firebreaks, insufficient personnel, or a lack of firefighting equipment.
 - b. If the certified prescribed burn is contained within the authorized burn area during the authorized period, a strong rebuttable presumption shall exist that adequate firebreaks, sufficient personnel, and sufficient firefighting equipment were present.
 - c. Continued smoldering of a certified prescribed burn resulting in a subsequent wildfire does not by itself constitute evidence of gross negligence under this section.

6. Is considered to be in the public interest and does not constitute a public or private nuisance when conducted under applicable state air pollution statutes and rules.
 7. Is considered to be a property right of the property owner if vegetative fuels are burned as required in this subsection.
- (c) A property owner or leaseholder or his or her agent, contractor, or legally authorized designee is not liable pursuant to s. 590.13 for damage or injury caused by the fire, including the reignition of a smoldering, previously contained burn, or resulting smoke or considered to be in violation of subsection (2) for burns conducted in accordance with this subsection, unless gross negligence is proven. The Florida Forest Service is not liable for burns for which it issues authorizations.
- (d) Any certified burner who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
- (e) The Florida Forest Service shall adopt rules for the use of prescribed burning and for certifying and decertifying certified prescribed burn managers based on their past experience, training, and record of compliance with this section.
- (4) CERTIFIED PILE BURNING.—
- (a) Certified pile burning pertains to the disposal of piled, naturally occurring debris from agricultural, silvicultural, land-clearing, or tree-cutting debris originating onsite. Certified pile burning must be conducted in accordance with the following:
1. A certified pile burner must ensure, before ignition, that the piles are properly placed and that the content of the piles is conducive to efficient burning.
 2. A certified pile burner must ensure that the authorized burn is completed no later than 1 hour after sunset. If the burn is conducted in an area designated by the Florida Forest Service as smoke sensitive, a certified pile burner must ensure that the authorized burn is completed at least 1 hour before sunset.
 3. A written pile burning plan must be prepared before receiving authorization from the Florida Forest Service to burn and must be onsite and available for inspection by a department representative.
 4. The specific consent of the landowner or his or her agent must be obtained before requesting authorization to burn.
 5. An authorization to burn must be obtained from the Florida Forest Service or its designated agent before igniting the burn.
 6. There must be adequate firebreaks and sufficient personnel and firefighting equipment at the burn site to contain the burn to the piles authorized.

- (b) If a burn is conducted in accordance with paragraph (a), the property owner and his or her agent are not liable under s. 590.13 for damage or injury caused by the fire or resulting smoke, and are not in violation of subsection (2), unless gross negligence is proven.
 - (c) A certified pile burner who violates this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
 - (d) The Florida Forest Service shall adopt rules regulating certified pile burning. The rules shall include procedures and criteria for certifying and decertifying certified pile burn managers based on past experience, training, and record of compliance with this section.
- (5) WILDFIRE HAZARD REDUCTION TREATMENT BY THE FLORIDA FOREST SERVICE.— The Florida Forest Service may conduct fuel reduction initiatives, including, but not limited to, burning and mechanical and chemical treatment, on any area of wild land within the state which is reasonably determined to be in danger of wildfire in accordance with the following procedures:
- (a) Describe the areas that will receive fuels treatment to the affected local governmental entity.
 - (b) Publish a treatment notice, including a description of the area to be treated, in a conspicuous manner in at least one newspaper of general circulation in the area of the treatment not less than 10 days before the treatment.
 - (c) Prepare and send a notice to all landowners in each area designated by the Florida Forest Service as a wildfire hazard area. The notice must describe particularly the area to be treated and the tentative date or dates of the treatment and must list the reasons for and the expected benefits from the wildfire hazard reduction.
 - (d) Consider any landowner objections to the fuels treatment of his or her property. The landowner may apply to the director of the Florida Forest Service for a review of alternative methods of fuel reduction on the property. If the director or his or her designee does not resolve the landowner objection, the director shall convene a panel made up of the local forestry unit manager, the fire chief of the jurisdiction, and the affected county or city manager, or any of their designees. If the panel's recommendation is not acceptable to the landowner, the landowner may request further consideration by the Commissioner of Agriculture or his or her designee and shall thereafter be entitled to an administrative hearing pursuant to the provisions of chapter 120.
- (6) FLORIDA FOREST SERVICE APPROVAL OF LOCAL GOVERNMENT OPEN BURNING AUTHORIZATION PROGRAMS.—
- (a) A county or municipality may exercise the authority of the Florida Forest Service, if delegated by the Florida Forest Service under this subsection, to issue authorizations for the burning of yard trash or debris from land-clearing

operations. A county's or municipality's existing or proposed open burning authorization program must:

1. Be approved by the Florida Forest Service. The Florida Forest Service may not approve a program if it fails to meet the requirements of subsections (2) and (4) and any rules adopted under those subsections.
 2. Provide by ordinance or local law the requirements for obtaining and performing a burn authorization that complies with subsections (2) and (4) and any rules adopted under those subsections.
 3. Provide for the enforcement of the program's requirements.
 4. Provide financial, personnel, and other resources needed to carry out the program.
- (b) If the Florida Forest Service determines that a county's or municipality's open burning authorization program does not comply with subsections (2) and (4) and any rules adopted under those subsections, the Florida Forest Service shall require the county or municipality to take necessary corrective actions within 90 days after receiving notice from the Florida Forest Service of its determination.
1. If the county or municipality fails to take the necessary corrective actions within the required period, the Florida Forest Service shall resume administration of the open burning authorization program in the county or municipality and the county or municipality shall cease administration of its program.
 2. Each county and municipality administering an open burning authorization program must cooperate with and assist the Florida Forest Service in carrying out the powers, duties, and functions of the Florida Forest Service.
 3. A person who violates the requirements of a county's or municipality's open burning authorization program, as provided by ordinance or local law enacted pursuant to this subsection, commits a violation of this chapter, punishable as provided in s. 590.14.
- (7) DUTIES OF AGENCIES.—The Department of Education shall incorporate, where feasible and appropriate, the issues of fuels treatment, including prescribed burning, into its educational materials.

History.—s. 9, ch. 99-292; s. 41, ch. 2002-295; s. 21, ch. 2005-210; s. 56, ch. 2011-206; s. 61, ch. 2012-7; s. 25, ch. 2013-226 s. 150, ch. 2014-150.

590.13 CIVIL LIABILITY.—Any person violating any of the provisions of this chapter shall be liable for all damages caused by such violation, which damages shall be recoverable in any court of competent jurisdiction. The civil liability attaches whether or not there is criminal prosecution and conviction.

History.—s. 17, ch. 17029, 1935; CGL 1936 Supp. 4151(10-uu); s. 10, ch. 99-292.

590.14 NOTICE OF VIOLATION; PENALTIES; LEGISLATIVE INTENT.—

- (1) If a Florida Forest Service employee determines that a person has violated chapter 589, this chapter, or any rule adopted by the Florida Forest Service to administer provisions of law conferring duties upon the Florida Forest Service, the Florida Forest Service employee may issue a notice of violation indicating the statute or rule violated. This notice will be filed with the Florida Forest Service and a copy forwarded to the appropriate law enforcement entity for further action if necessary.
- (2) In addition to any penalties provided by law, any person who causes a wildfire or permits any authorized fire to escape the boundaries of the authorization or to burn past the time of the authorization is liable for the payment of all reasonable costs and expenses incurred in suppressing the fire or \$150, whichever is greater. All costs and expenses incurred by the Florida Forest Service shall be payable to the Florida Forest Service. When such costs and expenses are not paid within 30 days after demand, the Florida Forest Service may take proper legal proceedings for the collection of the costs and expenses. Those costs incurred by an agency acting at the direction of the Florida Forest Service are recoverable by that agency.
- (3) The department may also impose an administrative fine in the Class I category pursuant to s. 570.971 for each violation of chapter 589 or this chapter or violation of any rule adopted by the Florida Forest Service to administer law conferring duties upon the Florida Forest Service. The fine shall be based upon the degree of damage, the prior violation record of the person, and whether the person knowingly provided false information to obtain an authorization. The fines shall be deposited in the Incidental Trust Fund of the Florida Forest Service.
- (4) A person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, if the person:
 - (a) Fails to comply with any rule or order adopted by the Florida Forest Service to administer provisions of law conferring duties upon it; or
 - (b) Knowingly makes any false statement or representation in any application, record, plan, or other document required by this chapter or any rules adopted under this chapter.
- (5) It is the intent of the Legislature that a penalty imposed by a court under subsection (4) be of a severity that ensures immediate and continued compliance with this section.
- (6) The penalties provided in this section shall extend to both the actual violator and the person or persons, firm, or corporation causing, directing, or permitting the violation.

History.—s. 15, ch. 17029, 1935; CGL 1936 Supp. 7404(2); s. 1, ch. 20898, 1941; s. 2, ch. 26915, 1951; s. 615, ch. 71-136; s. 82, ch. 93-169; s. 11, ch. 99-292; s. 32, ch. 2000-308; s. 49, ch. 2002-295; s. 57, ch. 2011-206; s. 62, ch. 2012-7; s.151, ch.2014-150.

590.15 BURDEN OF PROOF.—In any prosecution or civil action brought under the provisions of this chapter it shall not be necessary for the state or plaintiff to allege and prove absence of the right or authority of the defendant to set or cause to be set the fire, but such right and authority shall be a matter of affirmative defense to be alleged and proved by the defendant.

History.—s. 13, ch. 17029, 1935; CGL 1936 Supp. 4151(10-rr).

590.16 REWARDS.—The Florida Forest Service, in its discretion, may offer and pay rewards for information leading to the arrest and conviction of any person who violates any provision of this chapter.

History.—s. 16, ch. 17029, 1935; CGL 1936 Supp. 4151(10-tt); ss. 14, 35, ch. 69-106; s. 12, ch. 99-292; s. 63, ch. 2012-7.

590.25 PENALTY FOR OBSTRUCTING THE PREVENTION, DETECTION, OR SUPPRESSION OF WILDFIRES.—Whoever interferes with, obstructs or commits any act aimed to obstruct the prevention, detection, or suppression of wildfires by the employees of the Florida Forest Service or any other person engaged in the prevention, detection, or suppression of a wildfire, or who damages or destroys any equipment being used for such purpose, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 1, ch. 26833, 1951; ss. 14, 35, ch. 69-106; s. 616, ch. 71-136; s. 13, ch. 99-292; s. 64, ch. 2012-7; s. 26, ch. 2013-226.

590.27 PENALTY FOR MUTILATING OR DESTROYING FORESTRY OR FIRE CONTROL SIGNS AND POSTERS.—Whoever intentionally breaks down, mutilates, removes, or destroys any fire control or forestry sign or poster commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 3, ch. 26833, 1951; ss. 14, 35, ch. 69-106; s. 617, ch. 71-136; s. 14, ch. 99-292.

590.28 INTENTIONAL OR RECKLESS BURNING OF LANDS.—

- (1) Whoever intentionally burns, sets fire to, or causes to be burned or causes any fire to be set to, any wild land or vegetative land clearing debris not owned by, or in the lawful possession of, the person setting such fire or burning such lands or causing such fire to be set or lands to be burned without complying with s. 590.125, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (2) Whoever recklessly burns, sets fire to, or causes to be burned any wild lands not owned by, or in the lawful possession of, the person setting the fire or burning the

lands or causing the fire to be set or lands to be burned, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 29919, 1955; s. 15, ch. 99-292; s. 33, ch. 2000-308.

590.29 ILLEGAL POSSESSION OF INCENDIARY DEVICE.—

- (1) It is unlawful for a person other than a certified fire or law enforcement instructor to have in his or her possession any incendiary device as defined by subsection (3) with the intent to use such device for the purpose of burning or setting fire to any wild land, if such person is not the owner of, nor, as under a lease, in lawful possession of, the wild land.
- (2) The possession of any incendiary device as defined by subsection (3) is prima facie evidence of the intent of the person possessing such device to use such device for the purpose of burning or setting fire to wild land if such person is not the owner of the wild land.
- (3) The term “incendiary device” as used in this section is included but not limited to any “slow match” which is any device contrived to accomplish the delayed ignition of a match or matches or other inflammable material by the use of a cigarette, rope, or candle to which such match or matches are attached, or a magnifying glass so focused as to intensify heat on inflammable material and thus cause a fire to start at a subsequent time, and any chemicals or chemically treated paper or material, or other combustible material so arranged or designed as to make possible its use as a delayed firing device.
- (4) Anyone who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 1, ch. 29919, 1955; s. 3, ch. 84-7; s. 957, ch. 97-103; s. 16, ch. 99-292.

For 590.31 to 590.35, see Department of State F.A.C.

<http://www.leg.state.fl.us/statutes/index.cfm?StatuteYear=2014&AppMode>

590.31 SOUTHEASTERN INTERSTATE FOREST FIRE PROTECTION COMPACT.—

590.32 COMPACT; EFFECTIVE DATE; RATIFICATION.—

590.33 STATE COMPACT ADMINISTRATOR; COMPACT ADVISORY COMMITTEE.—

590.34 STATE COMPACT ADMINISTRATOR AND COMPACT ADVISORY COMMITTEE MEMBERS; POWERS; AID FROM OTHER STATE AGENCIES.—

590.35 CONSTRUCTION OF SS. 590.31-590.34.—

590.42 FEDERALLY FUNDED FIRE PROTECTION ASSISTANCE PROGRAMS.—

- (1) The Florida Forest Service of the Department of Agriculture and Consumer Services may enter into agreements with the Secretary of Agriculture of the United States in order to participate in the Federal Rural Community Fire Protection Program authorized by Pub. L. No. 92-419, whereby the Federal Government provides financial assistance to the states on a matching basis of up to 50 percent of expenditures for such purposes.
- (2) With respect to the formulation of projects relating to fire protection of livestock, wildlife, crops, pastures, orchards, rangeland, woodland, farmsteads, or other improvements, and other values in rural areas, for which such federal matching funds are available, any participating county or fire department may contribute to the nonfederal matching share and may also contribute such other nonfederal cooperation as may be deemed necessary by the Florida Forest Service.
- (3) The provisions of this section are supplementary to the provisions of s. 125.27.

History.—s. 1, ch. 73-243; s. 19, ch. 99-292; s. 68, ch. 2012-7.

590.61 FORESTRY ARSON ALERT PROGRAM.—The forestry arson alert program is hereby established within the department. The purpose of this program is to:

- (1) Engage in any lawful activity to enhance public awareness of the economic costs, environmental damage, and cultural deprivations which accompany forest fires.
- (2) Engage in any lawful activity to enhance public awareness of the importance of quick reports of forest arson and of accurate reporting of information to law enforcement officials to the apprehension of persons engaged in forest arson.
- (3) Reward public-spirited citizens who cooperate with law enforcement officials in the apprehension and conviction of persons engaged in forest arson.
- (4) Provide public recognition to public-spirited citizens who contribute to the prevention of forest arson through education programs and assistance to law enforcement officials.

History.—s. 24, ch. 92-151.

CHAPTER 823 – PUBLIC NUISANCE**823.02 BUILDING BONFIRES.**

Whoever is concerned in causing or making a bonfire within 10 rods of any house or building shall be guilty of a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

823.041 DISPOSAL OF BODIES OF DEAD ANIMALS; PENALTY.

Abstract: 823.041 Disposal of bodies of dead animals; penalty. (2) It is unlawful to dispose of the carcass of any domestic animal by dumping such carcass on any public road or right-of-way, or in any place where such carcass can be devoured by beast or

bird. (4) For the purposes of this act, the words "domestic animal" shall include any equine or bovine animal, goat, sheep, swine, dog, cat, poultry, or other domesticated beast or bird.

CHAPTER 877 – MISCELLANEOUS CRIMES

877.15 FAILURE TO CONTROL OR REPORT DANGEROUS FIRE.

Any person who knows, or has reasonable grounds to believe, that a fire is endangering the life or property of another, and who fails to take reasonable measures to put out or control the fire when the person can do so without substantial risk to himself or herself, or who fails to give a prompt fire alarm, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, if:

- (1) The person knows that he or she is under an official, contractual, or other legal duty to control or combat the fire; or
- (2) The fire was started lawfully by the person or with his or her assent and was started on property in his or her custody or control.

History. — s. 3, ch. 79-108; s. 220, ch. 91-224; s. 1430, ch. 97-102.

CHAPTER 403 – ENVIRONMENTAL CONTROL (EXCERPTS RELATED TO FIRES)

403.707 PERMITS

- (2) Except as provided in s. 403.722(6), a permit under this section is not required for the following:
 - (e) Disposal of solid waste resulting from normal farming operations as defined by department rule. Polyethylene agricultural plastic, damaged, nonsalvageable, untreated wood pallets, and packing material that cannot be feasibly recycled, which are used in connection with agricultural operations related to the growing, harvesting, or maintenance of crops, may be disposed of by open burning if a public nuisance or any condition adversely affecting the environment or the public health is not created by the open burning and state or federal ambient air quality standards are not violated.

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
FLORIDA FOREST SERVICE
CHAPTER 5I-2 OPEN BURNING
REVISED 10/19/2014

5I-2.001 General. (Repealed)

5I-2.002 Declaration and Intent. (Repealed)

5I-2.003 Definitions.

5I-2.004 Open Burning not Allowed.

5I-2.005 Limitations. (Repealed)

5I-2.006 Open Burning Allowed.

5I-2.0061 Prescribed Burning; Burn Manager Certification. (Repealed)

5I-2.007 Rural Land Clearing. (Repealed)

5I-2.008 Penalties. (Repealed)

5I-2.003 DEFINITIONS.

- (1) **“Agricultural Burning”** is the burning of vegetative material originating on site in conjunction with the cultivation of land, and including: gardening or horticulture, fruit growing, raising of vegetables, trees, shrubs, plants, pastures or rangeland.
- (2) **“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.
- (3) **“Air Pollution”** is the presence in the outdoor atmosphere of any one or more substances or contaminants in quantities which are potentially harmful or injurious to human health or welfare, animal or plant life, or property, or which unreasonably interferes with the enjoyment of life or property, including outdoor recreation, unless specifically exempted by state statute.
- (4) **“Air Pollution Episode”** means a day on which generally unhealthy air (an Air Quality Index value of 151 or greater) occurs or is forecast to occur by the Department of Environmental Protection (DEP).
- (5) **“Broadcast Burning”** means the burning of agricultural or natural vegetation by allowing fire to move across a predetermined area of land. The term does not include the burning of vegetative debris that is piled or stacked.
- (6) **“Certified Pile Burner”** is an individual who successfully completes the certification program of the Florida Forest Service as outlined in subparagraphs 5I-2.006(8)(c)1. through 3., F.A.C., and possesses a valid certification number.
- (7) **“Certified Pile Burning”** is a pile burn conducted in accordance with a written pile burning plan by a certified pile burner.
- (8) **“Certified Prescribed Burn Manager”** is an individual who successfully completes the certification program of the Florida Forest Service as outlined in

subparagraphs 5I-2.006(2)(e)1. through 3., F.A.C., and possesses a valid certification number.

- (9) **“Certified prescribed burning”** means prescribed burning in accordance with a written prescription conducted by a certified prescribed burn manager.
- (10) **“Completed”** means that for:
1. Broadcast burning, no continued lateral movement of fire across the authorized area into entirely unburned fuels within the authorized area.
 2. Certified pile burning or pile burning, no visible flames exist.
 3. Certified pile burning or pile burning in an area designated as smoke sensitive by the Florida Forest Service, no visible flames, smoke, or emissions exist.
- (11) **“Contained”** means that fire and smoldering exist entirely within established or natural firebreaks.
- (12) **“Department”** is the Department of Agriculture and Consumer Services.
- (13) **“Dispersion Index”** is a numerical index from 0 to infinity supplied daily by National Weather Service (NWS), that estimates the atmosphere’s capacity to distribute particles and gases emitted by a wildland fire of any type. The Dispersion Index has two relative scales, one for day and one for night.
- (14) **“Excessive Visible Emissions”** are air pollutants emitted in such quantity as to exceed a DEP opacity standard, as determined by a visible emissions observer certified pursuant to Rule 62-297.320, F.A.C., or reduce an observer’s view to less than 100 feet.
- (15) **“Fine Fuel Moisture”** is the amount of moisture, usually expressed as a percentage, found in fast drying, dead fuels such as grass, leaves, draped pine needles, and very small diameter (less than 1/4 inch) twigs.
- (16) **“Flame Length”** is the distance between the flame tip and the base of the flame measured generally at the ground surface.
- (17) **“Land Clearing Debris”** is uprooted or cleared vegetation resulting from a land clearing operation including untreated wood, e.g., old fence posts, and does not include yard trash.
- (18) **“Mixing Height”**, as supplied daily by the National Weather Service, is the height above the land surface in feet to which relatively vigorous mixing of the atmosphere occurs.
- (19) **“National Weather Service Air Stagnation Advisory”** is an advisory issued by the National Weather Service to caution local and regional agencies on meteorological conditions expected to persist for at least 36 hours, which are conducive to poor dispersion.
- (20) **“Occupied Building”** means any building that serves as a primary residence, meeting place, or place of business.

- (21) **“Open Burning”** means any outdoor fire or open combustion of material which produces visible emissions.
- (22) **“Pile Burning”** is any burning of silvicultural, agricultural or land clearing and tree cutting debris originating on site that has been stacked together in a round or linear (windrow) fashion. Pile burning authorized by the Florida Forest Service is a temporary procedure, which operates on the same site for 6 months or less.
- (23) **“Pile Burn Plan”** is a written plan establishing the method of conducting a certified pile burn.
- (24) **“Prescribed Burning”** means the application of fire by broadcast burning for vegetative fuels under specified environmental conditions while following appropriate measures to guard against the spread of fire beyond the predetermined area to accomplish planned fire or land management objectives.
- (25) **“Prescription”** is a written plan establishing the conditions and method for conducting a certified prescribed burn.
- (26) **“Relative Humidity”** is the ratio, expressed as a percentage of the amount of moisture in the air, to the maximum amount of moisture the air is capable of holding under the same conditions.
- (27) **“Refractory Lined”** means any non-metallic ceramic substance that is suitable for use as structural material at high temperatures and is used in Air Curtain Incinerators.
- (28) **“Residential Pile Burning Operation”** is a pile burning operation that is conducted by a landowner or an individual contracted by the landowner for an existing or planned residential dwelling of not more than two family units. This does not include the burning of yard trash.
- (29) **“Silviculture”** is a forestry operation dealing with the establishment, development, reproduction, and care of forest flora and fauna.
- (30) **“Smoke Sensitive Areas”** are areas designated by the Florida Forest Service within which, for reasons of visibility, health or human welfare, smoke could unduly adversely impact public safety e.g., interstates, urban areas, airports, and hospitals.
- (31) **“Smoldering”** is the continued consumption of fuels, which may emit flames and smoke, after a fire is contained.
- (32) **“Spreading”** is continued lateral movement of the fire into unburned fuels.
- (33) **“Sunset”** is the official time the sun will set as set forth by the U.S. Naval Observatory (tables are available at National Weather Services offices).

- (34) **“Surface Wind Speed”** is wind speed in miles per hour measured 20 feet above the average local vegetation. Wind speeds supplied by the National Weather Service are “Surface Wind Speeds.”
- (35) **“Transport Wind Speed”** is a measure of the average rate, in miles per hour, of the horizontal movement of air throughout the mixing layer.
- (36) **“Trash”** means waste materials resulting from the construction, renovation or demolition of a structure, and other debris such as paper, cardboard, packing material, pharmaceuticals, cloth, glass, street sweepings, vehicle tires and other like matter. The definition does not include untreated wood, land clearing debris, tree cutting debris, or yard trash.
- (37) **“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.
- (38) **“Tree Cutting Debris”** is debris consisting of trees, tree stumps, and tree limbs resulting from a tree removal or tree trimming operation that is conducted by the homeowner or an individual contracted by the homeowner of an existing residential dwelling of not more than two family units. It does not include yard trash.
- (39) **“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, CCA, and other wood preservatives or treatments.
- (40) **“Windrow”** means a long row of vegetative material originating on the site left to dry.
- (41) **“Yard Trash”** (Yard Waste, Chapter 62-256, F.A.C.) means vegetative matter resulting from landscaping and yard maintenance operations and other such routine property cleanup activities. It includes materials such as leaves, shrub trimmings, grass clippings, brush, and palm fronds.

Rulemaking Authority 570.07(23), (28), 590.125(3)(e) FS. Law Implemented 570.07(28), 570.548, 590.02(1)(b), 590.125(2), (3) FS. History—New 7-1-71, Formerly 17-5, Amended 7-1-75, Formerly 5I-2.03, Amended 1-9-91, 8-9-93, 8-16-95, 10-18-99, 10-31-05, 12-16-08, 10-19-14.

5I-2.004 OPEN BURNING NOT ALLOWED.

- (1) Listed below are the types of open burning not allowed in Florida:
- (a) Any open burning disallowed by Rule Chapters 5I-2 and 62-256, F.A.C., or Chapters 403 and 590, F.S.
 - (b) 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 other than yard trash as provided in subsection 62-256.700(1), F.A.C., except that structures may be burned for the training of fire fighters 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.; polyethylene agricultural plastic and untreated wood pallets used in agriculture may be burned in accordance with subsection 62-256.700(7), F.A.C.; and animal carcasses may be burned in accordance with subsection 62-256.700(6), F.A.C.

- (c) Open burning that reduces visibility at a public airport, unless the airport in question has been contacted and has agreed to control air traffic during burning activities to avoid any possible smoke related problems.
 - (d) Open burning when an air pollution episode exists or is forecast to occur.
 - (e) Open burning during a National Weather Service Air Stagnation Advisory.
 - (f) Open burning which reduces visibility on paved public roadways to less than one thousand (1000) feet unless the regulating authorities have agreed to control traffic, or have delegated the authority to control traffic.
 - (g) Burning in smoke sensitive areas between one hour before sunset and 9:00 a.m. the next day.
 - (h) All open burning when the Florida Forest Service determines that the fire poses a threat to public health, safety, and property protection.
 - (i) Open burning when the Florida Forest Service determines that atmospheric or meteorological conditions indicate improper dispersion of smoke that threatens public health, safety, or general welfare; or which would obscure visibility of vehicular or air traffic; or violates the condition of the authorization, or burning prescription.
- (2) Open burning authorizations will be denied to any burner who repeatedly violates Florida law or agency rules. This denial remains in effect until the concern that caused the denial has been mitigated in consultation with the Florida Forest Service District/ Center Manager.

Rulemaking Authority 570.07(23), (28) FS. Law Implemented 570.07(28), 570.548, 590.02(1)(b), 590.125(2), (3) FS. History—New 7-1-71, Formerly 17-5, Amended 7-1-75, Formerly 5I-2.04, Amended 9-8-93, 8-16-95, 10-18-99, 10-31-05, 12-16-08.

5I-2.006 OPEN BURNING ALLOWED.

- (1) Open Burning in General. Authorization must be obtained from the Florida Forest Service (FFS) for burns relating to agriculture, silviculture and pile burning. Daytime authorizations for these types of burning are issued on the day of the burn or after 4:00 p.m. of the previous day and ignition of the burn will start at 8:00 AM (Central Time) or 9:00 AM (Eastern Time) on the day stated in the FFS authorization unless

approval is given by the FFS District or Center Manager or their designee to begin the burn earlier. The FFS will set special requirements for all types of authorizations, (certified or non-certified), in order to protect public health and safety, including; on site inspections, restricting wind direction, limiting the burning period, within each day or to a specific number of days for those types of authorizations that allow for multiple burning days, halt or limit burning when fire danger is too high in all, or specific parts of the state, and requiring specific personnel e.g., Certified Burners and containment equipment on site. Any authorized burn that goes out of compliance, but has not escaped the authorized area will be allowed a maximum of two hours to be brought into compliance by the person responsible. In the event that the FFS determines that there is a threat to life, public safety or property, immediate suppression action will be taken by the FFS.

- (2) Open Burning for Certified Prescribed Burn Managers. All burning conducted under this section is related to broadcast burning for the purposes of: Silviculture, Wildlife Management, Ecological Maintenance and Restoration, and Agriculture. Open burning authorizations under this section require the Certified Prescribed Burn Manager's certification number be presented at the time of the request, and that a Certified Prescribed Burn Manager be on site and directly supervises the certified prescribed burn until the burn is completed, after which the Certified Prescribed Burn Manager is not required to be present.
- (a) Prescription. A prescription for the burn must be completed prior to any ignition and a paper copy must be on site and available for inspection by a Department representative. The prescription will contain, as a minimum, the following:
1. Stand or Site Description;
 2. Map of the area to be burned;
 3. Fire Breaks (External and Internal) to be Constructed or Re-Worked (Map);
 4. Minimum number of personnel and equipment types to be used on the prescribed burn;
 5. Desired weather factors, including but not limited to surface wind speed and direction, transport wind speed and direction, minimum mixing height, minimum relative humidity, maximum temperature, and the minimum fine fuel moisture;
 6. Desired fire behavior factors, such as type of burn technique, flame length, and rate of spread;
 7. The time and date the prescription was prepared;
 8. The authorization date and the time period of the authorization;
 9. An evaluation and approval of the anticipated impact of the proposed burn on related smoke sensitive areas;

10. The signature and number of the Certified Prescribed Burn Manager.
- (b) Open Burning Hours.
 1. Daytime Certified Prescribed Burn Manager Authorizations will be issued for the burning to be completed two hours after sunset.
 2. Nighttime Certified Prescribed Burn Manager Authorizations will be issued with a Dispersion Index of 6 or above for the burning to be conducted between one hour before sunset and must be completed by 8:00 a.m. (CT) or 9:00 a.m. (ET) the following day. Ignition of these fires is authorized up to midnight, however the fire can continue to spread into unburned fuels until 8:00 a.m. (CT) or 9:00 a.m. (ET) the following day. If additional time is required a new authorization (daytime) must be obtained from the FFS. The FFS will issue authorizations at other times, in designated areas, when the FFS has determined that atmospheric conditions in the vicinity of the burn will allow good dispersement of emissions, and the resulting smoke from the burn will not adversely impact smoke sensitive areas, e.g., highways, hospitals and airports.
 - (c) A new prescription or authorization is not required for smoldering that occurs within the authorized burn area unless new ignitions are conducted by the Certified Prescribed Burn Manager.
 - (d) Monitoring the smoldering activity of a certified prescribed burn does not require a prescription or an additional authorization even if flames begin to spread within the authorized burn area due to ongoing smoldering.
 - (e) Burn Manager Certification Process. To become a Certified Prescribed Burn Manager an individual must complete the required training and conduct a successful certification burn.
 1. The Florida Certified Prescribed Burn Manager Training Course is approved by the FFS to meet the required training. It is offered in two formats:
 - a. The distance learning format is intended for experienced burners and students must meet the following criteria prior to taking the course; have obtained authorizations, as provided in subsection (1), from the FFS and conducted a minimum of three broadcast burns in Florida or participation in five broadcast burns in Florida with recommendation from a current Certified Prescribed Burn Manager, or hold a current prescribed burner certification in another State or hold a current Prescribed Fire Burn Boss Type 2 Certification.
 - b. The classroom format is open to individuals of all experience levels. After taking this course trainees must obtain direct experience in three broadcast burns prior to conducting a certification burn. If the student meets the criteria for the distance learning format, then the three burns after the course are not necessary.

2. Certification burn process. Within three years of completing the course (either format), applicants must submit a completed prescription for the proposed certifying burn to their local FFS office prior to the burn for review and approval. After the prescription has been approved the burn described in that prescription must be reviewed by the FFS during the burn operation. The local FFS Center/District Manager (or their designee) will recommend FFS Prescribed Burn Manager Certification to the Forest Protection Bureau upon satisfactory completion of both the prescription and the review of the actual burn.
 3. In order to continue to hold the FFS Prescribed Burn Manager Certification the burner must comply with paragraph 5I-2.006(2)(f), F.A.C., or Florida Forest Service Certification will terminate five years from the date of issue.
- (f) Certification Renewal. A Certified Prescribed Burn Manager must satisfy the following requirements in order to retain certification.
1. Participation in a minimum of eight hours of FFS approved training every five years relating to the subject of prescribed fire, or participation in a FFS recognized Fire Council Meeting; and
 2. The Certified Prescribed Burn Manager has submitted their certification number for two completed prescribed burns in the preceding five (5) years; or
 3. Participation in five (5) burns and have this documented and verified in writing to the Forest Protection Bureau's Prescribed Fire Manager of the FFS by a current Certified Prescribed Burn Manager; or
 4. Retaking the Florida Certified Prescribed Burn Manager Training Course in either format.
- (g) Decertification. A Certified Prescribed Burn Manager's certification shall be revoked if the Burn Manager's actions constitute violations of Florida law and agency rules which equal or exceed 15 points within any two year period using the Certified Prescribed Burn Manager Violations – Point Assessment Table, Version 3.0, July 31, 2014, which is hereby adopted and incorporated by reference and is available at:

<http://www.flrules.org/Gateway/reference.asp?No=Ref-04586>

A decertified Burn Manager must complete the Burn Manager Certification process outlined in paragraph 5I-2.006(2)(e), F.A.C., in order to be recertified.

- (3) Open Burning Non-Certified Broadcast Burners. All burning conducted under this section is related to broadcast burning of acreage not conducted as a certified prescribed burn.
- (a) Daytime Non-Certified Authorizations must be completed by one hour before sunset.

- (b) Nighttime Non-Certified Broadcast Authorizations will be issued with a Dispersion Index of 8 or above for the burning to be conducted between one hour before sunset and 8:00 a.m. (CT) or 9:00 a.m. (ET) the following morning. Ignition of these fires is authorized up to midnight CT or ET, specific to the time zone where the fire is located; however the fire must be completed by 8:00 a.m. (CT) or 9:00 a.m. (ET) the following day. If additional time is required, a new daytime authorization must be obtained from the FFS.
 - (c) A new authorization is not required for smoldering that occurs within the authorized burn area unless new ignitions are conducted by the person named responsible in the burn authorization or a designee; and
 - (d) Monitoring the smoldering activity of a burn does not require an additional authorization even if flames begin to spread within the authorized burn area due to ongoing smoldering.
- (4) Pile Burning General. The size and number of piles shall be dictated by the materials to be burned and the time available for burning. All pile burning must adhere to the following:
- (a) The moisture content and composition of the materials to be burned shall be favorable to good burning which will minimize emissions. The amount of dirt in the piles or rows shall be minimized to enhance combustion and reduce emissions; and
 - (b) The pile or windrow burning must be set back one hundred (100) feet from any paved public roadway and the prevailing winds will direct the smoke away from any occupied buildings (other than the landowners) or roads. Pile burning for paved public road maintenance and widening is exempt from the 100 foot set back as long as the visibility on the roadway is not reduced to less than 1,000 feet; and
 - (c) The pile burning is attended at all times; and
 - (d) The pile burning must meet one of the following setback requirements:
 1. Residential, and Agricultural/Silvicultural pile burning must be set back three hundred (300) feet or more away from any occupied building other than that of the landowner and fifty (50) feet from any wildlands, brush or combustible structure.
 2. Non-Residential pile burning without an Air Curtain Incinerator must be set back one thousand (1,000) feet or more away from any occupied building and one hundred (100) feet from any wildlands, brush or combustible structure.
 - (e) Exception to Setbacks – An exception to the setbacks in subparagraphs 5I-2.006(4)(d)1. and 2., F.A.C., will be granted if all of the affected parties agree in writing to allow the burn to take place.

- (f) The burning will not exceed 6 months on the same site from the date of the initial authorization from the FFS, unless the FFS is notified of an exemption by the Department of Environmental Protection (DEP), or unless the authorization is for agricultural citrus spot burning as defined in subsection 5I-2.006(9), F.A.C.
- (5) Tree Cutting Debris Burning. Open burning to dispose of tree cutting debris shall be conducted using a DEP permitted air curtain incinerator. Open burning to dispose of tree cutting debris without use of a permitted air curtain incinerator is allowed provided:
- (a) The tree cutting debris was generated on residential premises of not more than two family units; and
 - (b) The open burning is restricted to the site where the tree cutting debris was generated; and
 - (c) The open burning is conducted in accordance with all provisions applicable to pile burning as set forth by the FFS at paragraphs 5I-2.006(4)(a), (b), (c), (d)1., and (e), F.A.C.; and
 - (d) The open burning is not prohibited by any local, county, or municipal rule or ordinance or the open burning is conducted in accordance with any such rule or ordinance to the extent that such rule or ordinance is stricter than the provisions of this subsection.
- (6) Air Curtain Incinerator Burning. The use of an Air Curtain Incinerator is allowed for the combustion of land clearing debris, provided the incinerator has a DEP air permit or has been specifically exempted from air permitting by the DEP. If an air curtain incinerator has been exempted from air permitting by the DEP, prior authorization to use the incinerator must be obtained from the FFS. Operation of an exempt air curtain incinerator shall be authorized provided that open burning would otherwise be allowed under this chapter and the following conditions are met:
- (a) Only kerosene, diesel fuel, drip torch fuel, clean dry wood or lightered pine, virgin oil, natural gas or liquefied petroleum gas may be used to start the fire in the incinerator. The use of used oil, chemicals, gasoline, or tires to start the fire is prohibited.
 - (b) An air curtain incinerator must be located at least 300 feet from any occupied building and 50 feet from any wildlands, brush, combustible structure, or paved public roadway.
 - (c) Incinerators equipped with refractory-lined walls, shall begin charging no earlier than sunrise and must complete burning no later than one hour after sunset.
 - (d) Incinerators not equipped with refractory lined walls must complete burning no

later than one hour after sunset.

- (e) Regardless of the air curtain incinerator type, after charging ceases, air flow shall be maintained until all material within the air curtain incinerator has been reduced to coals, and flames are no longer visible. A log shall be maintained on site, and available upon request, that documents daily beginning and ending times of charging.
 - (f) If the air curtain incinerator employs an earthen trench, the pit walls (width and length), shall be vertical, and maintained so that the combustion of the waste within the pit will be maintained at an adequate temperature and with sufficient air re-circulation to provide enough residence time and mixing for proper combustion and control of emissions. Pit width shall not exceed twelve (12) feet.
 - (g) The waste material shall not be loaded into the air curtain incinerator such that it protrudes above the level of the air curtain in the pit.
 - (h) Ash shall not be allowed to build up in the pit of the air curtain incinerator to higher than 1/3 the pit depth or to the point where the ash begins to impede combustion, whichever occurs first.
 - (i) Excessive visible emissions are not allowed except for a period of up to 30 minutes during start ups.
 - (j) The air curtain incinerator shall be attended at all times while materials are being burned or flames are visible within the incinerator.
 - (k) Exceptions to the setback requirements from occupied buildings shall be granted by the FFS when the applicant obtains a signed written statement from every affected resident within the setback area that waives their objections to the open burning associated with the land clearing operation and presents the statement to the FFS 48 hours in advance of the burning.
 - (l) If the owner or operator of the air curtain incinerator, by lease or other means, grants authority to operate the incinerator to a person not in the employ of the owner, the owner shall provide such person with a copy of this rule section's requirements.
- (7) Off Site Burning. Any open burning of land clearing debris that is allowed by this chapter is restricted to the site where the material was generated and such material shall not be transported to another property to be burned, unless the land clearing debris has been generated by the person, or their agent, who owns or leases the property where it was generated and to where it is transported, and operates an air curtain incinerator in compliance with all applicable paragraphs of subsection 5I-2.006(6), F.A.C.
- (8) Open Burning for Certified Pile Burners. All burning conducted under this section is

related to pile burning in Florida regardless of the purpose. The FFS will issue multiple day authorizations up to three days when the Fire Readiness Level has been set to 1 or 2. Certified Pile Burners must comply with the hours of operation listed in paragraph 5I-2.006(8)(b), F.A.C. A three day authorization does not allow for burning past one hour after sunset each day. Open burning authorizations under this section require that the Certified Pile Burner certification number be presented at the time of the request, and that a Certified Pile Burner sign the startup log and shutdown log, indicating that the piles are properly setup and shut down, attached to the burn plan located at each site on a daily basis.

- (a) Pile Burn Plan. A plan for the burn must be completed prior to any ignition and a paper copy must be on site and available for inspection by a Department representative. The plan will contain, as a minimum, the following:
1. Burn location;
 2. Soil type and moisture;
 3. Number of personnel and equipment types to be used on the pile burn;
 4. Desired weather factors, including but not limited to surface wind speed and direction, minimum relative humidity, drought index, days since rain, maximum temperature, and the dispersion index;
 5. Fuel type and condition (how long has it been drying);
 6. The time and date the plan was prepared;
 7. The authorization date and the time period of the authorization;
 8. An evaluation and approval of the anticipated impact of the proposed burn on related smoke sensitive areas;
 9. Adjacent landowners to notify;
 10. Special precautions;
 11. The signature and number of the Certified Pile Burner.
- (b) Open Burning Hours. Certified Pile Burner's authorized burns must be completed by one hour after sunset, if the fire is in or impacting a smoke sensitive area its completion time is one hour before sunset.
- (c) Pile Burner Certification Process. Certification to become a Certified Pile Burner is accomplished by:
1. Satisfactory completion of the FFS Certified Pile Burner Course, and
 2. Applicants must submit a completed plan for a proposed certifying burn to their local FFS office within one year of completing the classroom training and prior to the certifying burn for review and approval. After the plan has been approved the burn described in that plan must be reviewed by the Florida Forest Service during the burn operation. The local FFS District

Manager, or their designee, will recommend Florida Forest Service Pile Burner certification to the Forest Protection Bureau upon satisfactory completion of both the plan and the review of the actual burn.

3. In order to continue to hold the Florida Forest Service Pile Burner Certification the burner must comply with paragraph 5I-2.006(8)(d), F.A.C., or FFS Certification will terminate five years from the date of issue.

(d) Certification Renewal. A Certified Pile Burner must satisfy the following requirements in order to retain certification:

1. The Certified Pile Burner has submitted his or her certification number for five completed pile burns in the preceding five (5) years; or
2. He or she must retake the Pile Burner Certification Training Course.

(e) Decertification. A Certified Pile Burner's certification shall be revoked if the Certified Pile Burner's actions constitute violations of Florida law and agency rules which equal or exceed 15 points within any two year period using the Certified Pile Burner Violations – Point Assessment Table, Version 3.0, July 31, 2014, which is hereby adopted and incorporated by reference and is available at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-04585>

A decertified Pile Burner must complete the Pile Burner Certification process outlined in paragraph 5I-2.006(8)(c), F.A.C., in order to be recertified.

- (9) Citrus spot burning is a Florida Forest Service (FFS) program that includes both certified and non-certified pile burners. In order to participate in this program a burner must submit a Citrus Spot Burner Application, FDACS-11622, Rev. 08/14, which is hereby adopted and incorporated by reference and is available at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-04587>, to the local FFS District or Center office and have the site where the burning is to be conducted inspected by the FFS prior to any pile burning authorizations being issued for that site. The application must include a map of the burn sites. The person responsible for the burning that is listed on the application must complete Citrus Spot Burning Training prior to conducting the burn. This four-hour training is offered annually by the participating FFS Centers or District Offices and will review proper management of smoke from their citrus spot burns, as well as Section 590.125(2), Florida Statutes, and Rule 5I-2.006, F.A.C. Citrus spot burns are required to have a setback of at least 400 feet from combustible vegetation (brush or wildlands).

- (10) Open Burning for Non-Certified Pile Burners. The FFS will issue authorizations for one day only for all pile burning, except for those burning citrus. Citrus pile authorizations will be issued for up to three days. Non-Certified Pile Burners must comply with normal hours of operation listed in this section on a daily basis. A three day authorization does not allow for night time burning. Burns for Non-Certified Pile Burners must be completed by one hour before sunset. In smoke sensitive areas the

piles must be completed with no visible flame or emissions one hour before sunset.

- (11) Recreational Open Burning. Nothing in this chapter shall be construed to prohibit the legal open burning of vegetative debris and untreated wood in a campfire, outdoor fireplace, or other contained outdoor heating or cooking device, or on cold days for warming of outdoor workers. Furthermore, nothing in this chapter shall be construed to prohibit the open burning of vegetative debris or untreated wood in a recreational or ceremonial bonfire, as long as the fire is attended at all times and is completely smothered with no visible flame, smoke or emissions if the area is to be left unattended. The person or persons responsible for the recreational fire shall ensure compliance with any applicable open burning rules adopted by the FFS.
- (12) Open Burning Exceptions. The Director of the FFS is authorized to grant exceptions in furtherance of public health, safety and welfare, to the open burning rules within Chapter 5I-2, F.A.C., in the event of an emergency that would require the destruction of vegetative debris or animal carcasses in the most expeditious means possible. Examples would include the burning of vegetative matter or animal carcasses resulting from an insect or disease infestation, or resulting from storm damage e.g., hurricanes or tornados.

Rulemaking Authority 570.07(23), (28), 590.02(1)(f), 590.125(3)(e), 590.125(4)(d)
FS. Law Implemented 570.07(28), 570.548, 590.02(1)(b), 590.02(1)(i), 590.125(2),
(3) FS. History—New 7-1-71, Formerly 17-5, Amended 7-1-75, Formerly 5I-2.06,
Amended 1-9-91, 9-8-93, 8-16-95, 10-18-99, 10-31-05, 12-16-08, 10-19-14.

CHAPTER 62-256 OPEN BURNING

62-256.100 Declaration and Intent. (Repealed)

62-256.200 Definitions.

62-256.300 Prohibitions.

62-256.400 Agricultural and Silvicultural Fires. (Repealed)

62-256.450 Burning for Cold or Frost Protection. (Repealed)

62-256.500 Land Clearing. (Repealed)

62-256.600 Industrial, Commercial, Municipal, and Research Open Burning. (Repealed)

62-256.700 Open Burning Allowed.

62-256.800 Effective Date. (Repealed)

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).
- (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.