

**RULES OF THE  
ENVIRONMENTAL PROTECTION  
COMMISSION  
OF HILLSBOROUGH COUNTY**

**CHAPTER 1-4  
OPEN BURNING**

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**1-4.01 STATEMENT OF INTENT**

1. The Commission promulgates this rule for the purpose of implementing the intent of the Florida Legislature as declared in the Environmental Protection Act of Hillsborough County to insure the atmospheric purity and freedom of the air of Hillsborough County from combustion contaminants or synergistic agents injurious to human, plant, or animal life, which unreasonably interfere with comfortable enjoyment of life or property or the conduct of business. In so doing with regard to open burning, the Commission recognizes that the Florida Department of Environmental Protection has certain concurrent jurisdiction pursuant to Chapter 403, Florida Statutes. It is the intent of the Commission to require compliance with the Department's rules in Hillsborough County, except as may be otherwise provided herein so as to further the policy of protecting air quality existing at the time the Department adopted its standards, and of upgrading or enhancing air quality.

2. Standards and provisions of the Department, as here adopted, are

incorporated in the form existing on the date of adoption of this rule or relevant amendment.

**1-4.02 DECLARATION OF LEGISLATIVE FINDINGS:**

The Commission hereby finds and declares that the open burning of materials outdoors and the use of outdoor heating devices result in or contribute to air pollution. The Commission finds that regulation of open burning and outdoor heating devices will reduce air pollution significantly. The Commission further finds that emissions from open burning, while in compliance with specific authorization requirements, may at times constitute nuisances, as defined and prohibited by the Act.

**1-4.03 DEFINITIONS**

1. Definitions contained in the Act apply to this rule.

2. Definitions contained in Section 256.200 F.A.C., as amended, shall apply to this rule unless otherwise provided herein.

3. The following specific definitions shall apply to this rule:

a. **“Director”** shall mean the Executive Director of the Commission or his authorized agent.

b. **“Land Clearing Operation”** shall mean the initial uprooting or clearing of vegetation in connection with construction for buildings, rights-of-way, residential, commercial, or industrial development, mineral operations, roads, flood control and water drainage channels, or initial clearing of agricultural lands, and does not include maintenance clearing of yard trash.

c. **“Agricultural Plastic”** shall mean either plastics used in normal agricultural practices which are composed primarily of polyethylene, or plastics found to be below USEPA toxicity/hazard threshold levels when used solely in agricultural mulch or twine applications, for tropical fish farm or hatchery operations, or

related aquacultural operations, or polyethylene plastic potting containers, used in nursery operations.

d. **“Portable Air Curtain Incinerator Unit”** shall mean an incinerator unit which is operated at any one site for a period of less than six (6) months.

e. **“Stationary Air Curtain Incinerator Unit”** shall mean an incinerator unit which is operated at any one site for more than six (6) months, or at any Florida Department of Environmental Protection permitted landfill for any length of time.

#### **1-4.04 PROHIBITIONS**

1. All open burning is prohibited in Hillsborough County except as may be specifically allowed pursuant to this rule. This prohibition includes open burning associated with the maintenance clearing of yard trash. No person shall ignite, cause to be ignited, permit to be ignited, suffer, allow, burn, conduct or maintain any prohibited open burning.

2. The open burning of tires, rubber material, Bunker C residual oil, asphalt, roofing materials, tar, railroad crossties and other creosoted lumber, plastics not otherwise allowed by this rule, or garbage is prohibited and may not be authorized.

3. No person shall use or operate any outdoor heating device or burn any unapproved fuel for cold or frost protection except as provided in this rule.

4. The Commission, the Hillsborough County Fire Department, the Division of Forestry, or any authorized fire control agency empowered by law or ordinance to extinguish unlawful burning, may extinguish or cause to be extinguished any fire that is unauthorized or does not comply with this rule. Any person responsible for unlawful open burning shall bear any applicable costs involved in extinguishing the fire.

5. Any open burning that is allowed pursuant to this rule is restricted to the site where the material was generated and materials may not be transported to another

property to be open burned, except as provided in rule Section 1-4.08(7) and (8).

6. Open burning within one thousand (1,000) feet of any active runway of a Department of Transportation approved public airport is prohibited.

7. Allowed or authorized open burning may be temporarily suspended when the Commission determines that ambient air concentrations of particulate matter or ozone may near or exceed the primary or secondary standards for these pollutants.

8. No open burning may be conducted during a National Weather Service Air Stagnation Advisory, a Florida Department of Environmental Protection Air Stagnation Advisory or Air Pollution Episode, or if the appropriate authorities determine that weather conditions are unfavorable for proper open burning.

#### **1-4.05 LIMITATIONS:**

Nothing in this rule may be construed to allow open burning which causes or constitutes a hazard to air traffic, which reduces visibility on public roadways to less than 500 feet, or which violates other laws, rules, regulations or ordinances.

#### **1-4.06 ALLOWED OPEN BURNING (no written EPC authorization required):**

Open burning under the following conditions is allowed without written authorization of the Director so long as the provisions of rule Sections 1-4.04, 1-4.05, and 1-4.09 are not violated (written authorization from other agencies may be required):

##### **1. Agricultural Open Burning**

a. Upon proper authorization from the Division of Forestry, open burning for range improvement, maintenance and continuation of the grazing of animals or burning incidental to other continuous agricultural activities, and initial agricultural land clearing but excluding other land clearing operations described in rule Section 1-4.03(3), so long as such

burning is consistent with the Rules of the Division of Forestry, Department of Agriculture and Consumer Service.

b. Upon proper authorization from the Division of Forestry, on-site open burning of agricultural plastic is allowed, including small volumes of plastic twine used in the normal operation of crop staking, and for nursery and tropical fish (farm or hatchery) operations. To promote alternative disposal options, EPC shall evaluate the necessity for continuing this authorization no later than December 31, 1999. In making its determination, EPC shall consider the economic feasibility of recycling agricultural plastics or substituting materials that would not require open burning. Open burning authorized under this subparagraph shall be conducted at least 30 feet away from any surface waters and must comply with Section 1-4.09.

## **2. Burning for Cold or Frost Protection**

Open burning for cold or frost protection as allowed by Section 62-256.450, F.A.C.

## **3. Official Public Purpose**

a. Open burning set or permitted by any public officer in the performance of official duty, if such fire is set or permission given for the purpose of weed abatement, the prevention of a fire hazard, including the disposal of dangerous materials where there is no safe alternate method of disposal, or where such fire is set in connection with county or municipal operations to burn yard trash generated by hurricane, tornado, fire, or other disaster, if an Air Curtain Incinerator as specified in rule Section 1-4.09(4) is used.

b. Open burning for the purpose of habitat or ecosystem management when authorized by appropriate public officials acting in accordance with state or local regulation.

## **4. Emergency Training**

Open burning for the instruction and training of organized fire fighters or industrial employees under the supervision of the appropriate public fire control official, provided that all applicable guidelines as established by the National Fire Protection Association Standard NFPA-1403 (as amended) are met, and :

a. The burning activities are for the sole purpose of fire suppression training for non-hazardous liquid fires such as gasoline or jet fuel and for structural fires. All insulation, electrical wiring, linoleum, carpeting, roofing material such as tar paper and asphalt shingles, or other excessive smoke producing or potentially air toxic materials are to be removed from a structure prior to burning.

b. The Commission and fire control officials are notified in advance of the time and place of the burning exercise.

## **5. Food Preparation/Warmth**

Open burning for the purpose of outdoor non-commercial food preparation which is conducted in a container, or any fire in a container that is being used for the purpose personal warmth, providing that only clean wood, charcoal or other accepted wood substitutes are burned.

## **6. Personal Purposes**

a. Open burning for campfires, bonfires, ceremonial, or religious fires.

b. Open burning under this subsection shall be regulated by the appropriate jurisdiction's Fire Marshall, who shall be responsible for receiving all requests for authorization, issuing authorizations, and investigating all complaints of burning for personal purposes.

## **1-4.07 ALLOWABLE OPEN BURNING (written EPC authorization required):**

Open burning including the use of Air Curtain Incinerators, may be conducted for disposal of materials which result from land clearing operations, or from County maintenance of public rights-of-way, only after the issuance of written authorization as described in rule Section 1-4.08.

#### **1-4.08 ADMINISTRATIVE PROCEDURE AND CONDITIONS FOR AUTHORIZATIONS**

1. Open burning for agricultural purposes as described in rule Section 1-4.06(1) shall be administered by the Division of Forestry, which shall be responsible for receiving all requests for authorizations, issuing authorizations, and investigating all complaints involving open burning for agricultural purposes.

2. Open burning for land clearing as described in rule Section 1-4.07 shall be administered by the Commission, which shall be responsible for reviewing, processing, issuing all required authorizations, and investigating all complaints involving open burning for land clearing.

3. Any person intending to engage in open burning as described in rule Section 1-4.07 shall submit along with the necessary fee a written request to the Director on the application form provided for this purpose.

4. Upon the review of the application, and if the Director finds the open burning reasonably necessary and not contrary to the public interest, he shall approve the application. In granting such approval the Director may prescribe such special conditions or limitations as he deems necessary to minimize adverse effects. The written authorization will be prominently posted on site during the period of the open burning.

5. The use of Air Curtain Incinerators may be allowed for the combustion of land clearing debris. No Florida Department of Environmental Protection air construction or air operating permit is required for a Portable Air Curtain Incinerator Unit. Portable Air Curtain Incinerators shall comply with the conditions of rule Section 1-4.09(3).

6. Stationary Air Curtain Incinerator Units must obtain a Florida Department of Environmental Protection air pollution permit pursuant to Chapter 62-210 F.A.C., which application shall be submitted to the Director for processing.

7. Land clearing debris that is generated by the commercial land clearing activities of a person may be transported offsite to be burned by a portable Air Curtain Incinerator owned or operated by that person provided that the incinerator:

a. Is located on property owned or leased by the person who generated the land clearing debris, and

b. For Air Curtain Incinerators with vertical refractory-lined walls and with forced underdraft air, meets a setback distance of three hundred (300) feet from occupied buildings.

8. Land clearing debris generated from the activities of one or more persons may be transported offsite to be burned by a permitted Air Curtain Incinerator.

#### **1-4.09 OPEN BURNING REQUIREMENTS:**

1. All open burning, both allowed under rule Section 1-4.06 and authorized under rule Section 1-4.07, (except as allowed for cold and frost protection under provisions of Chapter 62-256.450, F.A.C), shall conform to the following conditions:

a. The open burning does not produce excessive or unnecessary smoke, soot, odors, visible emission, heat, flame, or radiation so as to cause a nuisance or to otherwise violate the Act.

b. Except for the authorized activities of Section 1-4.06, the open burning is setback one hundred (100) feet or more away from any public highway or road and the prevailing winds direct the smoke away from the public highway or road.

c. Except for the authorized activities of Section 1-4.06, all open burning shall be conducted only between the hours of 9:00 a.m. (local time) and one hour before sunset.

d. The moisture content and composition of the materials to be burned shall be favorable to good burning so as to minimize air pollution. Newly cut vegetative material shall be allowed to dry to reduce the naturally occurring moisture content. Wet material shall be provided adequate drying time prior to being burned.

e. The open burning is physically attended at all times and the person conducting the burning has the means to quickly suppress the fire.

f. Open burning must be conducted on the site where the material is generated except when an Air Curtain Incinerator is used as described in rule Section 1-4.08.

2. Open burning for land clearing shall conform to the conditions stated under rule Section 1-4.09(1) as well as the following specific conditions:

a. The open burning meets one of the following setback requirements:

1) Three hundred (300) feet or more away from any occupied building if an Air Curtain Incinerator is used, or

2) One thousand (1000) feet or more away from any occupied building if an Air Curtain Incinerator is not used.

b. The piles of materials to be burned shall be of such size that the burning will be completed within the designated time given in paragraph 1-4.09(1)(c). Restrictions on the size and number of piles may be imposed by the appropriate authorities.

c. The amount of dirt in a land clearing open burning operation shall be minimized to enhance combustion and reduce emissions.

3. Open burning of land clearing debris that uses an Air Curtain Incinerator shall conform to the conditions stated under rule Sections 1-4.09(1) and 1-4.09(2) as well as following specific conditions:

a. Pit width, length, and side walls shall be properly maintained so that the combustion of the waste within the pit will be maintained at an adequate temperature and with sufficient air recirculation to provide enough resident time and mixing for complete combustion and control of

emissions. Pit width shall not exceed twelve (12) feet, and vertical side walls shall be maintained.

b. No waste may be positioned to be burned above the level of the air curtain in the pit.

c. The types of materials to be burned are restricted to land clearing debris. Other materials will be separated and processed as solid waste.

d. Excessive visible emissions (greater than 40% opacity or Number 2 on the Ringelmann Smoke Chart) are not allowed except for a period up to 30 minutes during start-ups, shutdowns, and temporary malfunctions, as those terms are defined in Rule 1-3.

4. Exception to the setback requirements may be granted by the Commission if the applicant obtains a signed affidavit from affected residents within the setback area waiving all objections to the open burning associated with the land clearing operation. The applicant must provide at least 15 days written notice of the propose waiver, specifically referencing this rule and EPC, to all registered Neighborhood Organizations within 1 mile of the proposed burn site. Copies of each notice and the executed affidavits must be received by the Commission at the same time as the written request for authorization or prior to any allowed burning not requiring written authorization or permit pursuant to rule Section 1-4.08.

5. Open burning of waste pesticide containers shall conform to the conditions stated under rule Section 1-4.09(1) as well as the following specific conditions:

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.

c. No more than 100 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 1000 yards from each other location at which burning will occur concurrently.

d. All Group I containers which are to be disposed of 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 must be one thousand (1000) feet or more away from any occupied building, and is two hundred (200) feet or more away from any farm workers.

f. The person responsible for the burning must be in attendance at an upwind location from the fire for the entire period of the burn (until all emissions of flame and smoke have ceased).

g. The person desiring to conduct open burning of pesticide containers shall obtain the prior authorization of the Division of Forestry, and prior to initiating any open burning shall notify the Commission and provide the name, address, and phone number of the responsible party, the Division of Forestry permit number, the location of the burning, and the type and quantity of material being burned.

6. Open burning of agricultural plastic potting containers shall conform to the conditions stated under rule Section 1-4.09(1) as well as the following specific conditions:

a. Containers must be composed of polyethylene plastic.

b. Containers must be classified as polyethylene Type 1 (PET), Type 2 (HDPE), or Type 3 (LDPE) and be burning in open fields by the user of the material.

c. No more than 100 pounds of agricultural plastic potting container shall be burned per day at any specific location. If more than one fire is set in any specific area, each pile should be at least 1000 yards from any other location at which burning will occur concurrently.

d. All agricultural plastic potting containers which are to be disposed of by open burning shall be completely empty and free of residual material, including inner liners, which shall be rinsed to be rid of all fertilizer, soil or other residuals.

e. The open burning must be one thousand (1000) feet or more away from any occupied building, two hundred (200) feet or more away from any farm workers and at least one hundred (100) feet away from any roadway.

f. The person responsible for the burning must be in attendance at an upwind location from the fire for the entire period of the burn (until all emissions of flame and smoke have ceased).

7. Open burning of agricultural plastic shall conform to the conditions stated under rule Section 1-4.09(1).

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