

5I-2 Rule Revision
Florida Department of Agriculture and Consumer Services
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CHAPTER 5I-2 OPEN BURNING

5I-2.001 General. (Repealed)

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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 (Repealed)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) **“Certified Prescribed Burn Manager”** is an individual who successfully completes the certification program of the Division as outlined in subparagraphs 5I-2.006(2)(c)1. through 5., F.A.C., and possesses a valid certification number.

(6) **“Certified Pile Burner”** is an individual who successfully completes the certification program of the Division as outlined in subparagraphs 5I-2.006(8)(c)1. through 5., F.A.C., and possesses a valid certification number.

(7) **“Department”** is the Department of Agriculture and Consumer Services.

(8) **“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.

(9) **“Division”** is the Florida Division of Forestry.

(10) **“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.

(11) **“Extinguished”** means that no spreading flame for wildland burning or certified prescribed burning, and no visible flame, smoke or emissions for vegetative land-clearing debris burning, exist.

(12) **“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.

(13) **“Flame Length”** is the distance between the flame tip and the base of the flame measured generally at the ground surface.

(14) **“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.

(15) **“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, but does not include yard trash.

(16) **“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.

(17) **“National Weather Service Air Stagnation Advisory”** is an advisory issued by the National Weather Service (NOAA) to caution local and regional agencies on meteorological conditions expected to persist for at least 36 hours, which are conducive to poor dispersion.

(18) **“Occupied Building”** means any building that serves as a primary residence, meeting place, or place of business.

(19) **“Open Burning”** means any outdoor fire or open combustion of material which produces visible emissions.

(20) **“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.

(21) **“Prescribed Burning”** means the application of fire, in accordance with a written prescription for vegetative fuels, under specified environmental conditions while following appropriate precautionary measures that ensures public safety and that the fire is confined to a predetermined area to accomplish planned fire or land management objectives.

(22) **“Prescription”** is a written plan establishing the necessary criteria for starting, controlling, and extinguishing a prescribed burn.

(23) **“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.

(24) **“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.

(25) **“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.

(26) **“Silviculture”** is a forestry operation dealing with the establishment, development, reproduction, and care of forest flora and fauna.

(27) **“Smoke Sensitive Areas”** are areas designated by the Division of Forestry 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.

(28) **“Spreading”** is continued lateral movement of the fire into unburned fuels.

(29) **“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).

(30) **“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”.

(31) **“Transport Wind Speed”** is a measure of the average rate, in miles per hour, of the horizontal movement of air throughout the mixing layer.

(32) **“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 land clearing debris, tree cutting debris, or yard trash.

(33) **“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.

(34) **“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.

(35) **“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.

(36) **“Windrow”** means a long row of vegetative material originating on the site left to dry.

(37) **“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.

Specific 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 51-2.03, Amended 1-9-91, 8-9-93, 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 Division of Forestry for burns relating to agriculture, silviculture and pile burning. The Division of Forestry 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 and control 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 Division determines that there is a threat to life, public safety or property, immediate suppression action will be taken by the Division of Forestry.

(2) Open Burning for Certified Prescribed Burn Managers (CPBM). All burning conducted under this section is related to broadcast burning for the purposes of: Silviculture, Wildlife Management, Ecological Maintenance and Restoration, Range and Pasture Management. 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 for the entire burn.

(a) Prescription. A prescription for the burn must be completed prior to any ignition and it 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. Number of personnel and equipment types to be used on the prescribed burn;
4. 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;
5. Desired fire behavior factors, such as type of burn technique, flame length, and rate of spread;
6. The time and date the prescription 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. The signature and number of the Certified Prescribed Burn Manager.

(b) Open Burning Hours.

1. Daytime CPBM Authorizations will be issued for the burning to be conducted from 8:00 a.m. CT or 9:00 a.m. ET and the fire must discontinue spreading one hour after sunset.

2. Nighttime CPBM Authorizations will be issued with a Dispersion Index of 6 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 day. Ignition of these fires is authorized up to midnight, however the fire can continue to spread 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 Division. The Division will issue authorizations at other times, in designated areas, when the Division has determined that atmospheric conditions in the vicinity of the burn will allow good dispersment of emissions, and the resulting smoke from the burn will not adversely impact smoke sensitive areas, e.g., highways, hospitals and airports.

(c) Burn Manager Certification Process. Certification to become a Certified Prescribed Burn Manager is accomplished by:

1. Satisfactory completion of the Division of Forestry's Prescribed Fire Correspondence Course and direct experience in three prescribed burns prior to taking the course; or

2. Satisfactory completion of the Division of Forestry's Prescribed Fire Classroom version of the Correspondence Course and a minimum of managing three prescribed burns prior to taking the course; or

3. Satisfactory completion of the Florida Inter-Agency Basic Prescribed Fire Course and direct experience in three prescribed burns following successful completion of the classroom training. The burns conducted during the training do not count as part of this three burn requirement.

4. Applicants must submit a completed prescription for a proposed certifying burn to their local Florida Division of Forestry office prior to the burn for review and approval, and have the burn described in that prescription reviewed by the Division of Forestry during the burn operation. The local Division of Forestry District Manager (or their designee) will recommend DOF Prescribed Burn Manager certification upon satisfactory completion of both the prescription and required number of burns.

5. In order to continue to hold the Division of Forestry Prescribed Burn Manager Certification the burner must comply with paragraph 5I-2.006(2)(d), F.A.C., or Division Certification will terminate five years from the date of issue.

(d) 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 Division of Forestry approved training every five years relating to the subject of prescribed fire, or participation in a Division of Forestry 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 Division of Forestry by a current Certified Prescribed Burn Manager; or

4. Retaking either the Prescribed Fire Correspondence Course or the Inter-Agency Basic Prescribed Fire Course.

(e) 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, September, 2008, which is hereby adopted and incorporated by reference and is available at: http://www.fl-dof.com/wildfire/wf_pdfs/CBMpoints.pdf. A decertified Burn Manager must complete the Burn Manager Certification process outlined in paragraph 5I-2.006(2)(c), 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. Authorizations for this type of burning are issued on the day of the burn or after 4:00 p.m. of the previous day.

(a) Daytime Non-Certified Authorizations will be issued for the burning to be conducted from 8:00 a.m. (CT) or 9:00 a.m. (ET) and the fire must discontinue spreading 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 can continue to spread until 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 Division.

(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 (1000) 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.

(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 Division of Forestry 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 Division of Forestry. 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 end no later than one hour after sunset.

(d) Incinerators not equipped with refractory lined walls shall begin charging no earlier than 8:00 a.m. (CT) or 9:00 a.m. (ET) and must end 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) The burning will not exceed 6 months on the same site from the date of the initial authorization from the Division of Forestry, unless the Division is notified of an exemption by DEP.

(l) Exceptions to the setback requirements from occupied buildings shall be granted by the Division of Forestry 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 Division of Forestry 48 hours in advance of the burning.

(m) 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 (CPB). All burning conducted under this section is related to pile burning in Florida regardless of the purpose. The Division of Forestry will issue multiple day authorizations up to three days when the Fire Readiness Level has been set to 1 or 2. CPB's 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. Authorizations for this type of burning are issued on the day of the burn or after 4:00 p.m. of the previous 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 it 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. CPB Authorizations will be issued for the burning to be conducted from 8:00 a.m. (CT) or 9:00 a.m. (ET) and the fire must not have any visible flame after one hour after sunset except in smoke sensitive areas where there must be no visible emissions one hour before sunset.

(c) Pile Burner Certification Process. Certification to become a Certified Pile Burner is accomplished by:

1. Satisfactory completion of the Division of Forestry's Certified Pile Burner Course, and

2. Applicants must submit a completed plan for a proposed certifying burn to their local Florida Division of Forestry 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 Division of Forestry during the burn operation. The local Division of Forestry District Manager, or their designee, will recommend DOF 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 Division of Forestry Pile Burner Certification the burner must comply with paragraph 5I-2.006(8)(d), F.A.C., or Division 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, September, 2008, which is hereby adopted and incorporated by reference and is available at: http://www.fl-dof.com/wildfire/wf_pdfs/CPBpoints.pdf. 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) Open Burning for Non-Certified Pile Burners. The division 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. Non-Certified Pile Burners shall not begin burning before 8:00 a.m. (CT) or 9:00 a.m. (ET) and the burn shall have no visible flame one hour before sunset or anytime thereafter. In smoke sensitive areas the piles must be extinguished with no visible emissions one hour before sunset. Authorizations for Non-Certified Pile burning are issued on the day of the burn or after 4:00 p.m. of the previous day.

(10) 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 extinguished with no visible 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 Division of Forestry of the Florida Department of Agriculture and Consumer Services.

(11) Open Burning Exceptions. The Director of the Division of Forestry 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.

Specific 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-2.06, Amended 1-9-91, 9-8-93, 8-16-95, 10-18-99, 10-31-05, 12-16-08.