

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

**CHAPTER 1-4
OPEN BURNING**

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1-4.01 INTENT

Chapter 1-4 is intended to regulate open burning in order to protect air quality and to implement Ch. 84-446, Laws of Florida, as amended (EPC Act). EPC regulates open burning in Hillsborough County pursuant to the EPC Act and as delegated by the Florida Forest Service (FFS) pursuant to Section 590.125, Florida Statutes (F.S.), through an interagency agreement with the Florida Forest Service.

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1-4.02 DEFINITIONS

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

(a) "Air curtain incinerator (ACI)" is a portable 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. In addition to a pit, an air curtain incinerator can also be configured as an above-ground box, with or without refractory lining, with a manifold maintaining a curtain of air over the box. An air curtain incinerator operated at a property for less than six months is considered open burning for purposes of this rule.

(b) "Contained" open burning means recreational burning that is contained by a fire ring made of metal or rock, a grill, chiminea, screened fire pit, or other similar device that physically limits the spread of a small, recreational fire.

(c) "EPC" is the Environmental Protection Commission of Hillsborough County.

(d) "Executive Director" is the Environmental Director of the EPC as described in the EPC Act.

(e) "Extinguished" means the absence of any glowing coals, glowing embers, visible flames, smoke, emissions, flaming combustion, or surface combustion.

(f) "Garbage" means all kitchen waste, table food waste, animal waste, or vegetative waste that is attendant with or results from the storage, packaging, preparation, cooking or handling of food materials.

(g) "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).

(h) “Land clearing operation” means the initial uprooting or clearing of vegetation and untreated wood for residential, commercial, or industrial development; mineral operations; clearing of rights-of-way for public highways or roads; and clearing of vegetation by a government or its agent for public flood control and water drainage channels. It does not include landscaping and yard maintenance operations or other such routine property cleanup activities.

(i) “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 are expected to persist for at least 36 hours.

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

(k) “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.

(l) “Pile burning” is the open burning of any land clearing debris originating on site that has been stacked on top of the ground.

(m) “Recreational open burning” means the open burning of vegetative debris and untreated wood in contained fires or campfires for noncommercial preparation of food, recreational purposes, ceremonial occasions, burning in an outdoor fireplace or other outdoor heating or noncommercial cooking device, or an open burn on cold days for warming of outdoor workers.

(n) “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 the USNO’s website).

(o) “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 garbage (as defined herein), untreated wood, or vegetative debris.

(p) “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.

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

(r) “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.

(s) “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.

(t) “Yard waste” (also referred to as “Yard Trash” in Chapter 5I-2, Florida Administrative Code [F.A.C.]) 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.

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1-4.03 OPEN BURNING NOT ALLOWED

The following open burning activities are prohibited unless otherwise allowed in this rule or preempted by State law:

(a) 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 rule and the EPC Act; nor shall any person suffer, allow, conduct, or maintain any prohibited open burning.

(b) All residential open burning is prohibited including burning of yard waste, tree cutting debris, household garbage, and trash.

(c) Open burning of the following materials is prohibited: 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, yard waste, tree cutting debris, garbage, or trash.

(d) Additionally, EPC-authorized open burning for land clearing pursuant to Section 1-4.06 of this rule is not allowed during any one of the adverse conditions listed below. Persons burning or allowing burning are required to confirm (e.g. phone, email, website, etc.) that these conditions are not occurring before conducting a burn.

(1) If the National Weather Service issues an Air Stagnation Advisory;

(2) If the Florida Forest Service has determined weather conditions are unfavorable for safe burning;

(3) If any authority having jurisdiction bans open burning; or

(4) If EPC suspends open burning due to pollutant levels that are elevated or forecast to be elevated or if deemed a nuisance under the EPC Act.

(e) Nothing in this rule shall relieve any person from complying with any other applicable laws, rules or ordinances.

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1-4.04 OPEN BURNING ALLOWED

(a) Open burning resulting from land clearing associated with the following projects is allowed if authorized by the Executive Director or designee in accordance with Section 1-4.06 of this rule and if not prohibited by Section 1-4.03 or any other law:

(1) Initial clearing of vegetation for residential, commercial, and industrial development;

(2) Initial clearing for mineral operations;

(3) Clearing and maintenance of rights-of-way by a government or its agents for public highways or roads;

(4) Clearing and maintenance by a government or its agents for public flood control and water drainage channels.

(b) Open burning associated with agricultural activities is regulated solely by the FFS pursuant to the requirements of Rule 5I-2, F.A.C. This includes but is not limited to the following:

(1) Prescribed burns for fire hazard reduction or for habitat/ecosystem management and restoration;

(2) Silvicultural operations;

(3) Range improvement and maintenance of agricultural lands for the grazing of animals;

(4) Initial land clearing for agriculture or other agricultural purposes.

(c) The following types of open burning are allowed without EPC or Florida Forest Service authorization (persons burning should confirm that the FFS does not require authorization), as long as they are conducted in accordance with the laws of all authorities having jurisdiction over open burning:

(1) Recreational Open Burning.

Recreational open burning is allowed if it is in compliance with the EPC Act and this rule. Other authorities having jurisdiction in Hillsborough County (e.g. municipalities) may require written authorization for some types of recreational open burning.

(2) Open Burning for the Training of Fire Fighting. Open burning for the training of fire fighting is allowed if in compliance with Rule 62-256.700(4), F.A.C., and other applicable laws. The requirements of Rule 62-256.700(4), F.A.C., are adopted by reference and are

enforceable by the EPC. The EPC, as well as the Florida Forest Service and the Department of Environmental Protection (DEP), shall be notified in writing at least 10 business days in advance for burning of structures not on the premises of a certified training center.

(3) Open Burning of Storm-Generated Debris. Open burning of storm-generated debris (defined as vegetative debris and untreated wood) by a government or its agent is allowed if in compliance with Rule 62-256.700(8), F.A.C., and other applicable laws. The requirements of Rule 62-256.700(8), F.A.C, are adopted by reference and are enforceable by the EPC. Nonetheless, no pile burning of storm-generated debris is allowed, unless authorized by State emergency order. The local government shall provide written notice to EPC as well as the DEP.

(4) Open burning of materials resulting from agricultural activities as follows:

(i) Open burning of waste pesticide containers in accordance with Rule 62-256.700(5), F.A.C. For purposes of this rule, pesticide is defined in Rule 62-256.200, F.A.C.

(ii) Open burning of animal carcasses in accordance with Rule 62-256.700 (6), F.A.C., and Rule 5I-2.006(12), F.A.C.

(iii) Open burning of insect or disease infested vegetation in accordance with Rule 62-256.700(9), F.A.C., and Rule 5I-2.006(12), F.A.C.

(iv) Open burning of polyethylene agricultural plastic; damaged, nonsalvageable untreated wood pallets; and packing material that cannot feasibly be recycled in accordance with Section 403.707(2)(e), F.S.

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1-4.05 GENERAL REQUIREMENTS FOR EPC-AUTHORIZED OPEN BURNING AND FOR RECREATIONAL OPEN BURNING

All open burning in Hillsborough County that is authorized by the EPC for land clearing operations and all recreational open burning that is allowed pursuant to Section 1-4.04(c)(1) of this rule shall comply with the following general requirements:

(a) The open burning shall not produce excessive smoke, soot, odors, or visible emissions so as to cause a nuisance as defined in the EPC Act.

(b) The open burning shall be physically attended at all times, and the person conducting the burning shall have the means to extinguish the fire.

(c) Open burning shall not be conducted under power lines or low hanging tree limbs.

(d) The open burning shall not occur within 2,500 feet of any active runway owned by the Hillsborough County Aviation Authority, unless the Aviation Authority has been contacted and provides written agreement to the EPC that the proposed activity shall not have an adverse impact on any airport operations. Regardless of the distance, the open burning shall not reduce visibility for pilots or air traffic controllers at any of the Aviation Authority airports.

(e) If any open burning constitutes a nuisance under the EPC Act, the EPC may require the person conducting the burn to temporarily cease the burning until the burning is brought back into compliance.

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1-4.06 EPC OPEN BURNING AUTHORIZATIONS FOR LAND CLEARING ACTIVITIES

(a) Procedures for Obtaining Authorization.

(1) All applications and applicable fees (see Chapter 1-6) shall be submitted to the EPC for authorization to conduct open burning for land clearing as defined in Section 1-4.02(h) of this rule. Application forms are maintained by the EPC. Failure to submit the appropriate fee is grounds for denial of the application.

(2) Following a site inspection, if the applicant meets all rule criteria, the Executive Director or designee shall issue written authorization to the applicant to conduct open burning in

accordance with the conditions of authorization and this rule. No open burning may commence prior to receipt of written authorization.

(3) Open burning of initial land clearing debris may be authorized for 30 calendar days. The applicant must apply in writing to the EPC at least 3 days prior to expiration of the authorization to request an additional 15-day extension.

(4) Upon submittal of a complete application to the EPC, as described in this section, pile burning of initial land clearing debris related to mineral operations may be authorized for 90 calendar days and upon written request to the EPC prior to expiration of the initial authorization or subsequent renewal the authorization may be renewed for three additional 90-day periods in one 12-month period of time.

(5) Adequate signage shall be posted on site at the applicant's expense. The sign shall include the EPC authorization type, EPC name, EPC telephone number, and a statement to contact EPC regarding any questions or concerns. The signs shall be posted so as to be legible from the nearest public roadway(s) and also posted at all primary entrances and exits to the site. The posted signs must be no smaller than 24 inches by 36 inches. The signs shall be posted prior to initiating any open burn activities at the site, and shall remain posted until completion of all open burn activities. The applicant shall remove all signage at the conclusion of open burn activities.

(6) Exceptions to the setback requirements in Sections 1-4.06(b)(1) and (5) for pile burning and 1-4.06(c)(1) and (5) for air curtain incinerators may be granted by the Executive Director or designee 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 written notice of the signed affidavit, specifically referencing this rule and EPC, to all registered Neighborhood Organizations within one mile of the proposed burn site. EPC staff will not authorize any open burning until copies of each notice and the signed affidavits are received and reviewed by EPC staff.

(b) Requirements for Pile Burning.

In addition to the requirements of other laws and rules, including section 1-4.05, the following conditions also apply to pile burning:

(1) Open burning shall be set back at least 100 feet from any public roadway, and smoke from the burn shall not obscure visibility on roadways.

(2) Open burning shall be conducted between the hours of 9:00 a.m. and one hour before sunset. The burn shall be completely extinguished one hour before sunset. A record of open burning shall be maintained at the burn site that documents the daily start time and the time the burn was extinguished. The record shall be maintained on site throughout the duration of the permit.

(3) Material to be burned shall be dry and dirt in the pile shall be minimized prior to commencing the open burning.

(4) Open burning shall be conducted on the site where the material is generated.

(5) Open burning shall be set back at least 1,000 feet from any occupied building and 100 feet from wild lands, brush, or combustible structures.

(6) The Executive Director or designee may include conditions in the authorization that restrict the size and number of piles or require other limitations or restrictions depending on site-specific conditions to protect health, safety, and welfare.

(7) Prior to burning each day, the authorized burner shall provide notice to FFS and the County or municipalities' fire dispatch in the jurisdiction where the burn is authorized.

(c) Requirements for Burning with an Air Curtain Incinerator.

In addition to the requirement of other laws and rules, including section 1-4.05, the following conditions also apply to burning with an ACI:

(1) Open burning shall be set back at least 100 feet from any public roadway, and smoke from the burn shall not obscure visibility on roadways.

(2) Open burning shall be conducted between the hours of 9:00 a.m. and one hour before sunset. The burn shall be completely extinguished one hour before sunset. A record of open burning shall be maintained at the burn site that documents the daily start time and the time the burn was extinguished. The record shall be maintained on site throughout the duration of the permit.

(3) Material to be burned shall be dry and dirt in the ACI shall be minimized prior to commencing the open burning.

(4) Only kerosene, diesel fuel, drip torch fuel, untreated wood, virgin oil, natural gas, or liquefied petroleum gas shall be used to start the fire in the ACI. Used oil, chemicals, gasoline, or tires shall not be used to start the fire.

(5) The ACI shall be set back at least 300 feet from any occupied building and 50 feet from wild lands, brush, or combustible structures.

(6) All pit walls of the ACI shall be vertical and maintained for the duration of the authorized period so that combustion of the land clearing debris within the pit will be maintained at an adequate temperature and with sufficient air recirculation to provide enough residence time and mixing for proper combustion and control of emissions. If the ACI employs an earthen trench, the interior pit width (as measured by the direction of the air flow) shall not exceed 12 feet.

(7) Material shall not be loaded into the ACI such that it protrudes above the level of the air curtain in the pit.

(8) Ash shall not be allowed to build up in the pit of the ACI to higher than 1/3 the pit depth or to the point where ash begins to impede combustion, whichever occurs first.

(9) Visible emissions from the ACI shall not exceed 10% opacity, 6-minute average, except for up to 30 minutes during periods of start up when visible emissions up to 35% opacity, 6-minute average, shall be allowed.

(10) Open burning shall be conducted on the site where the material is generated, except that, in the case of a linear right-of-way, the site includes any and all locations within a one-mile span of the right-of-way.

(11) The Executive Director or designee may include conditions in the authorization that restrict the size and number of ACIs or require other limitations or restrictions depending on site-specific conditions to protect health, safety, and welfare.

(12) Prior to burning each day, the authorized burner shall provide notice to FFS and the County or municipalities' fire dispatch in the jurisdiction where the burn is authorized.

(13) For ACIs that are at one location for more than six months, in the event that no stationary source permit is required by the DEP, those ACIs shall be required to obtain authorization from the Executive Director or designee to operate the ACI. Such ACIs shall be subject to this rule, including but not limited to Sections 1-4.03(d), 1-4.05, and 1-4.06(c) of this rule, and shall also include conditions for annual visible emissions testing, record keeping, maintenance, and material throughput.

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