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DARM Guidance to District Offices and Local Air Programs

To: District Directors and Local Air Program Administrators

From: Division of Air Resource Management (DARM)

Date: February 22, 2019

Subject: Permit Exemptions for Open Burning at Industrial, Commercial, Institutional or Governmental Facilities

BACKGROUND

Chapter 62-256, F.A.C., prohibits the open burning of specific materials and authorizes certain open burn activities conducted in accordance with the requirements of that chapter. For more information, see the Division's website at <https://floridadep.gov/air/permitting-compliance/content/open-burning>.

Rule 62-256.300, F.A.C. - Prohibitions

- Prohibited materials include 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.
- Note that there is an exception for some of these materials if the open burn is conducted for the training of firefighters.
- City or county ordinances may also prohibit open burning that would otherwise be allowed by Chapter 62-256, F.A.C.
- The open burning of vegetative debris and untreated wood is also prohibited except as allowed by Rule 62-256.700, F.A.C., or subsection 62-296.320(3), F.A.C.

62-256.700, F.A.C. - Open Burning Allowed

- Most of the open burning allowed relates to open burning on residential properties (yard waste and tree-cutting debris), land clearing operations (vegetative debris), emergency events (animal carcasses, storm-generated debris, and insect/disease infested vegetations), or very specific activities (training for firefighters, waste pesticides containers, agricultural operations, and recreational burns).
- A "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. Section 62-256.700(3), F.A.C., authorizes open burning of land-clearing debris, which also requires a burn authorization from the Florida Forest Service.

- Although no Department authorization is required for the activities allowed in this chapter, owners and operators must follow the requirements in Rule 62-256.700, F.A.C. Note that some of these activities also require a daily burn authorization from the Florida Forest Service.

PURPOSE

The purpose of this guidance is to assist district and local air programs with evaluating requests for authorization to open burn vegetative debris and untreated wood connected with industrial, commercial, institutional, or governmental facilities. In accordance with subsection 62-296.320(3), F.A.C.:

- Open burning must be the *only available method of disposal*, and
- No *prohibited materials* specified in Chapter 62-256, F.A.C. will be open burned.

In practice, the Department considers the specific local circumstances and may authorize a temporary open burn activity by issuing an exemption from the requirement to obtain an air permit in accordance with Rule 62-4.040, F.A.C. This rule additionally requires that, "... the activity will not emit air pollutants in sufficient quantity, with respect to its character, quality, or content, and the circumstances surrounding its location, use and operation, as to contribute significantly to the pollution problems within the State, so that the regulation thereof is not reasonably justified."

FACTORS FOR CONSIDERATION

Q: Is the open burn activity already authorized by Rule 62-256.700, F.A.C.?

- If so, no additional Department authorization is necessary. Note that some of the allowed open burn activities also require approvals from the Florida Forest Service. For example, subsection 62-256.700(3), F.A.C. authorizes open burning of vegetative debris from land-clearing operations (see definitions), which is further regulated by the Florida Forest Service.

Q: Will the open burning occur at an industrial, commercial, institutional, or governmental operation?

- Outside of Rule 62-256.700, F.A.C., the Department may only authorize open burning of vegetative debris and untreated wood connected with industrial, commercial, institutional, or governmental operations pursuant to subsection 62-296.320(3), F.A.C. An open burn at, for example, a golf course would usually require Department authorization.

Q: Are the materials to be open burned prohibited by rule?

- Prohibited materials cannot be authorized through this exemption. Only vegetative debris and untreated wood may be considered for this exemption.

Q: Is open burning the only available method of disposal?

- Are there nearby waste collection services, recycling, and/or disposal facilities? If so, then other methods may be available.
- Can the materials be destroyed in a portable air curtain incinerator? If so, then other methods may be available. Portable air curtain incinerators that combust land clearing and storm-generated debris are exempt from the requirements to obtain an air permit in accordance with subparagraph 62-210.300(3)(a)26., F.A.C.
- Is the request to satisfy a one-time need (e.g., an infrequent storm event caused the downed debris)? If not, this suggests a regular waste disposal activity.

Q: Will the activity cause air pollution in sufficient quantity to justify regulation?

- Is the property located in a densely populated area or adjacent to another facility?
- Can the materials be open burned safely and comply with proper setbacks?
- How much vegetative debris and untreated wood will be burned? Can this amount of material be burned in a relatively short period (a few days or a week) to minimize potential complaints?

Q: Does the open burn have the potential to generate complaints?

- Is the property large enough to provide sufficient setbacks to minimize potential impacts to neighbors?
- Open burning in many urban areas may be prohibited by county or municipal ordinance.
- Open burning in urban areas may impact more people and generate more complaints. Open burning in a rural area on a large property, with few nearby neighbors, may have fewer impacts and generate fewer complaints.

Findings Necessary for Open Burning Permit Exemption

Before issuing an open burning permit exemption, the Division recommends the following:

- Confirm that only vegetative debris and untreated wood connected with industrial, commercial, institutional, or governmental operations will be open burned. No “prohibited materials” will be open burned.
- Determine that open burning the only available method of disposal.
- Determine that open burning will not cause air pollution in sufficient quantity to justify regulation.
- Conduct due diligence to determine whether there are local rules that prohibit open burning. Do not issue the exemption if open burning is prohibited by local rules.
- Look at available online maps to verify the location and nearby neighbors.
- Contact the Florida Forest Service and find out whether the burn location is currently under a burn ban.



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Division of Air Resource Management