

**Chapter 62-256**  
**Open Burning and Frost Protection Fires**

**62-256.100 Declaration and Intent.**

- (1) The Department 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 Department further finds that regulation of open burning and outdoor heating devices will reduce air pollution significantly.
- (2) It is the intent of the Department to require that open burning be conducted in a manner, under conditions, and within certain periods that will reduce or eliminate the deleterious and noisome effect of air pollution caused by open burning.
- (3) It is the intent of the Department to phase out, over a period of years, open burning of certain unapproved materials and heating devices which are presently being used for crop protection against frost and freezing and to require that only materials and heating devices which emit a minimum of air pollution be used.
- (4) The Department finds that certain fuels release less air pollution when burned than do other fuels. Therefore, the Department intends to approve fuels which contribute only a minimum of air pollution and allow their use for cold or frost protection and to phase out, over a period of years, all fuels which do not meet Department specifications.

History: New 7-1-71; Amended 7-30-85, 10-20-86; Formerly 17-5.01; Transferred From 17-5.001, Formerly 17-256.100, Amended 11-30-94.

62-256.100

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## 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) NOT SIP-APPROVED
- (2) "Air pollution" is the presence in the outdoor atmosphere of the state of any one or more substances or contaminants in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere with the enjoyment of life or property, including outdoor recreation.
- (3) NOT SIP-APPROVED
- (4) "Approved fuel" shall mean fuel approved by the Department to emit or release a minimum of pollutants when burned.
- (5) "Clean dry wood" means wood (including lighter pine), lumber or tree and shrub trunks, branches, and limbs which is free of paint, pentachlorophenol, creosote, tar, asphalt, *or other wood preservatives* and which when burned does not emit excessive visible emissions.
- (6) "Department" is the Department of Environmental Protection.
- (7) "Department Air Stagnation Advisory" is a temporary prohibition of open burning activities by the Department that is based upon a Department forecast of a stagnant atmospheric meteorological condition that does not allow the dispersion of air pollutants
- (8) "Excessive visible emissions" are air pollutants emitted in such quantity as to obscure an observer's view to a degree equal to or greater than Number two (or 40% opacity) on the Ringelmann Smoke Chart as published in the U.S. Bureau of Mines Information Circular No. 7718.
- (9) "Extinguished" means the absence of any visible flames, smoke or emissions.
- (10) "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.
- (11) "Group I Containers" means combustible containers which formerly contained organic or metallo-organic pesticides, except organic mercury, lead, cadmium, or arsenic compounds.
- (12) "Land Clearing Debris" is uprooted or cleared vegetation resulting from a land clearing operation and does not include yard trash
- (13) "Land clearing operation" means the uprooting or clearing of vegetation in connection with construction for buildings, rights-of-way; residential, commercial, or industrial development\_or the initial clearing of vegetation to enhance property value; but does not include the maintenance burning of yard trash resulting from fallen limbs, branches, or leaves, or any other routine property clean-up activities.
- (14) "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.
- (15) "Non-rural land clearing" is any land clearing operation that is conducted in urban or residential areas, incorporated or unincorporated cities or towns, or in any non-rural area

- as designated by the Department and shall not include any land clearing operation that is associated with country, livestock or with agricultural activities.
- (16) "Nuisance" means any open burning activity which is potentially harmful or injurious to human health or property or which is annoying or offensive to occupants of three or more occupied residences
  - (17) "Open Burning" [means any outdoor fire or open combustion of material which produces or may produce air pollution.] 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.
  - (18) "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.
  - (19) "Outdoor heating device" means any apparatus, machine, equipment, or other contrivance in which is burned any type of fuel capable of producing air pollution, used outdoors for the purpose of giving protection from cold or frost.
  - (20) "Pesticide" means any substance or mixture of 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.
  - (21) "Residential land clearing" is a land clearing 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 for the purpose of initially clearing vegetation on the property.
  - (22) "Sunset" is official sunset as set forth by the U.S. Naval Observatory (tables are available at National Weather Services).
  - (23) "Trash" means, construction or demolition debris] and other debris such as paper, cardboard, 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.
  - (24) "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.
  - (25) "Yard trash" means vegetative matter resulting from landscaping and yard maintenance operations and includes materials such as, tree and shrub trimmings, grass clippings,

palm fronds, trees and tree stumps. It does not include land clearing debris or tree cutting debris.

History: New 7-1-71; Amended 1-11-82, 7-30-85, 10-20-86; Formerly 17-5.02; Transferred From 17-5.020, Formerly 17-256.200, Amended 11-30-94.

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| 1 <sup>st</sup> Revision | 12/23/1981               | 4/12/1982               | 47 FR 15581         |
| 2 <sup>nd</sup> Revision | 12/21/1994               | 6/16/1999               | 64 FR 32346         |

**62-256.300 Prohibitions.**

- (1) NOT SIP-APPROVED
- (2) 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 chapter.
- (3) The open burning of tires, rubber material, Bunker C residual oil, asphalt, roofing material, tar, railroad cross ties, other creosoted lumber, [refuse,] plastics except for polyethylene black plastic mulch used in agriculture, garbage, or trash other than yard trash and household paper products is prohibited. Open burning of yard trash and household paper products is prohibited except as provided in Florida Administrative Code Rule 62-256.700.
- (8) Open burning which reduces visibility on public roadways to less than one thousand (1000) feet is prohibited.
- (9) Nothing in this Chapter may be construed to allow open burning which violates other laws, rules, regulations, or ordinances.

History: New 7-1-71; Amended 1-11-82, 10-10-82, 7-30-85, 10-20-86, 8-26-87; Formerly 7-5.03 and .04; Transferred From 17-5.030, Formerly 17-256.300, Amended 11-30-94.

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| 2 <sup>nd</sup> Revision | 11/15/1982               | 3/14/1983               | 48 FR 10650         |
| 3 <sup>rd</sup> Revision | 12/21/1994               | 6/16/1999               | 64 FR 32346         |

**62-256.400 Agricultural and Silvicultural Fires.**

Pursuant to Section 8 of the Florida Environmental Reorganization Act, Chapter 75-22, Laws of Florida, 1975, this section has been transferred to the State of Florida Department of Agriculture and Consumer Services, Division of Forestry. See Chapter 5I-2, Florida Administrative Code.

History: New 7-1-71; Transferred to 5I-2.06, 7-1-75; Formerly 17-5.05; Transferred 17-5.050, Formerly 17-256.400.

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**62-256.450 Burning for Cold or Frost Protection.**

- (1) Intent. The purpose of this Section is to allow the use of open burning and outdoor heating devices to prevent damage to agricultural products from cold and frost in a manner which provides the maximum protection to the quality of the ambient air in Florida. Furthermore, this Section will minimize air pollution by restricting the use of open fires and outdoor heating devices to times and temperatures when absolutely necessary to prevent cold damage.
- (2) Approval. Open burning or the use of outdoor heating devices for frost or cold protection in connection with agricultural operations is allowed, provided the fuel and the heating device used have approval from the Environmental Regulation Commission prior to use, or have been authorized by the Secretary pursuant to Florida Administrative Code Rule 62-256.450(4).
  - (a) The following fuels are approved for use:
    1. No. 2 diesel fuel
    2. No. 2 fuel oil
    3. Propane gas
    4. Alcohol (ethanol or methanol)
    5. Butane
    6. Liquid petroleum gas
    7. Petroleum coke
    8. Charcoal
    9. Clean dry wood
    10. Methane
  - (b) The following heating devices are approved for use:
    1. Spot heater  
Spot heaters
    2. HY-LO Return Stack  
Scheu Products Company
    3. HY-LO Large Cone  
Scheu Products Company
    4. Brader Heater  
Brader Heaters, Inc.
    5. Georges Heater  
Georges Enterprises, Inc.
    6. Agri-Heat Heater  
Agri-Heat, Inc.
    7. A conical heater  
Fulton-Cole Seed Company
    8. Orchard-Rite Heater  
Orchard Rite, Ltd.
    9. "Return Stack"

2000 used heaters approved for W. H. Clark Fruit Co.

10. Radiant Omni-Heater  
New Draulics, Inc.
  11. HY-LO Lazy Flame Heater  
Scheu Products Company
  12. Sun Heater Model 2  
Fleming-Troutner Agricultural Heating, Inc.
  13. Self Vaporizing Model M.B.S.-1  
Burners, Inc.
  14. HY-LO Auto Clean Stack  
Scheu Products Company
  15. Mobil Tree Heat  
Mobil Oil Corporation
  16. Fireball  
Sebring Forest Products
- (c) Criteria for approval of new fuels:  
Any person desiring to have a fuel approved for frost protection related open burning shall submit a petition to the Environmental Regulation Commission requesting that such fuel be added to Florida Administrative Code Rule 62-256.450(2)(a). The petition shall contain the following information:
1. Name, address, and telephone number of applicant;
  2. Trade name or other designation of fuel;
  3. Chemical composition of fuel;
  4. The composition and quantity of air contaminants given off per unit of fuel; and
  5. The expected rate of use of the fuel.
- (d) Criteria for approval of new outdoor heating devices:  
Any person desiring to have an outdoor heating device approved shall submit a petition to the Environmental Regulation Commission requesting that such device be added to Florida Administrative Code Rule 62-256.450(2)(b). The petition shall contain the following information:
1. Name, address and telephone number of applicant;
  2. Trade name or other designation of the device;
  3. Brief description of the device;
  4. Type of fuel that is used in the device;
  5. The composition and quantity of air contaminants; and
  6. Evidence that the device does not emit more than five-tenths gram per minute of unconsumed solid carbonaceous matter or particulate matter.
- (3) Operating Conditions:  
Open burning of approved fuels and the use of approved outdoor heating devices for frost or cold protection in connection with agricultural operations shall be in accordance with the following requirements:
- (a) Open fires or outdoor heating devices for the protection of agricultural crops from

cold or frost shall not be ignited until the ambient temperature drops to 32°F, except as provided in paragraph (b), below.

- (b) Open fires or outdoor heating devices for the protection of subtropical fruit, crops, and foliage such as mangos, papayas, etc., may be ignited at temperatures above 32°F if the threshold temperature for cold damage for that plant is higher.
  - (c) Temperature measurement for cold and frost protection burning shall be measured using a Standard Cotton Region Shelter or a Standard Fruit Frost Station.
- (4) Exceptions:
- (a) Although Florida Administrative Code Rule 62-256.450(1) through (3) are intended to provide adequate measures to conserve fuel, protect the atmosphere, and allow for protection of agricultural crops, hard to predict circumstances may require exceptions to this Section. Therefore, the Secretary is authorized to grant exceptions and allow the use of heating devices and fuels not included on the published list in the event of prolonged cold weather and shortage of approved fuels.
  - (b) Exceptions may be granted to persons who possess approved heating devices and who had possessed sufficient approved fuels for at least 20 hours of burning provided that:
    - 1. More than a total of 20 hours of temperatures of 25°F or lower has occurred during the season;
    - 2. Sufficient approved fuels and clean dry wood are not available for adequate protection from cold or frost;
    - 3. The burning of unapproved fuel is necessary to prevent irreparable damage to agricultural crops;
    - 4. There is no forecast of a condition which might cause an air pollution episode as defined by Florida Administrative Code Rule 62-2.320.
  - (c) The Secretary shall make a public declaration and disseminate it to the news media when it is determined that an exception is necessary. The declaration shall include the following:
    - 1. A list of the fuels that can be used and the conditions under which they can be used.
    - 2. The pollution potential and possible adverse health effects.
  - (d) In no case shall the Secretary allow the burning of Bunker C residual oil, tires, rubber materials, asphalt, tar, railroad cross ties, other creosoted materials, or plastics, as fuel.]

History: New 7-1-71; Amended 1-11-82, 10-20-86; Formerly 17-5.06; Transferred From 17-5.060, Amended 6-27-91, Formerly 17-256.450.

62-256.450

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| 2 <sup>nd</sup> Revision | 12/23/1981               | 4/12/1982               | 47 FR 15581         |
| 3 <sup>rd</sup> Revision | 7/09/1991                | 9/09/1994               | 59 FR 46552         |

**62-256.500 Land Clearing.**

Pursuant to Section 8, of the Florida Environmental Reorganization Act, Chapter 75-22, Laws of Florida, 1975, regulation of rural land clearing open burning has been transferred to the State of Florida Department of Agriculture and Consumer Services, Division of Forestry. See Chapter 51-2, Florida Administrative Code. The following rules apply only to nonrural land clearing open burning:

- (1) Open burning of wooden material or vegetation generated by a land clearing operation (except for agricultural, silvicultural, or forestry operations) or the demolition of a structure is allowed provided one of the following alternatives is satisfied:
  - (a) The open burning is two hundred (200) feet or more from any occupied building and one hundred (100) feet or more from any public highway or road and is ignited after 9:00 a.m. and is extinguished one hour before sunset.
  - (b) At other times when:
    - 1. The open burning is fifty yards or more from any occupied building or public highway and a forced draft system is used; or
    - 2. The open burning is five hundred yards or more from any occupied building or a public highway and the Department has given permission because of reasonable assurance that atmospheric and meteorological conditions in the vicinity of the burning will allow good and proper diffusion and dispersment of air pollutants; or
  - (c) The burning is conducted under the supervision of the Department of Transportation, a forced draft is used, and visibility on roadways is not artificially reduced to less than 500 feet.
- (2) If the burning site is situated in a rural area or is adjacent to or near forest, grass, woods, wild lands or marshes, the Division of Forestry shall be notified and consulted prior to any burning.
- (3) All open burning under this section shall be conducted in the following manner:
  - (a) 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 17-5.07(1)(a).
  - (b) The moisture content and composition of the material to be burned shall be favorable to good burning which will minimize air pollution.
  - (c) The starter fuel and materials to be ignited shall not emit excessive visible emissions when burned.

History: New 7-1-71; Amended 1-11-82, 10-20-86, 8-26-87, 11-23-88; Formerly 17-5.07; Transferred From 17-5.070, Formerly 17-256.500, Amended 11-30-94.

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| 2 <sup>nd</sup> Revision | 12/21/1994            | 6/16/1999            | 64 FR 32346      |

**62-256.600 Industrial, Commercial, Municipal, and Research Open Burning.**

- (1) Open burning in connection with industrial, commercial, or municipal operations is prohibited, except when the open burning is determined by the Department to be the only feasible method of operation and prior approval is obtained from the Department, or when an emergency exists which requires immediate action to protect human health and safety, or in connection with county or municipal operations to burn hurricane, tornado, fire, or other disaster generated yard trash using an Air Curtain Incinerator as specified in Florida Administrative Code Rule 62-256.500(2).
- (2) Open burning and the use of outdoor heating devices which are essential to a research project are allowed provided prior approval is obtained from the Department.
- (3) The application for approval under this section shall include the following:
  - (a) The name, address, and telephone number of the person submitting the application;
  - (b) The type of business or activity involved;
  - (c) A description of the proposed equipment and operating practices, the type, quantity, composition and amount of air contaminants to be released to the atmosphere;
  - (d) The schedule of burning operations, if known;
  - (e) The exact location of requested open burning;
  - (f) If applicable, reasons why no method other than open burning is feasible; and,
  - (g) Evidence that the proposed open burning has been approved by the fire control authority which has jurisdiction.
- (4) Nothing herein shall relieve any person from complying with any other applicable laws, rules and ordinances, including Chapter 590, Florida Statutes, and rules of the Division of Forestry.
- (5) The Department shall approve such operations or research projects only on specified conditions which protect the ambient air from pollutants and contaminants to the greatest extent, and may limit the approval to a specified time.

History: New 7-1-71; Amended 10-20-86, 8-26-87; Formerly 17-5.08; Transferred From 17-5.080, Formerly 17-256.600.

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**62-256.700 Open Burning Allowed.**

- (1) Open burning to reduce yard trash and household paper products generated on occupied residential premises of not more than two family units is allowed in ozone attainment areas as specified in Florida Administrative Code Rule 62-275 without Department authorization provided that all of the following conditions are met:
  - (a) The open burning does not produce smoke, soot, odors, visible emissions, heat, flame, radiation, or other conditions to such a degree as to create a nuisance.
  - (b) The open burning is one hundred (100) feet or more from any occupied building other than that owned or leased by the individual doing the burning and fifty (50) feet or more from any public highway or road and is ignited after 9:00 a.m. and is extinguished one hour before sunset providing that no visible smoke will be allowed over any adjacent residence or over the road that would cause a nuisance. These setback requirements apply in counties that are not specifically listed in 62-256.090(1)(c).
  - (c) The open burning is three hundred (300) feet or more from any occupied building other than that owned or leased by the individual doing the burning and one hundred (100) feet or more from any public highway or road and is ignited after 9:00 a.m. and is extinguished one hour before sunset providing that no visible smoke will be allowed over any adjacent residence or over the road that would cause a nuisance. The requirements in this section apply in the following counties: Dade, Broward, Pinellas, Hillsborough, Palm Beach, Duval, Orange, Polk, Brevard, Volusia, Escambia, Lee, Sarasota, Pasco, Seminole, Alachua, Manatee, Leon, Marion, Okaloosa, Lake, Bay, St. Lucie, and Collier.
  - (d) The open burning is fifty (50) feet or more from any residence on the property where the burning is being conducted.
  - (e) The open burning is attended and adequate fire extinguishing equipment is readily available at all times.
  - (f) The moisture content and composition of material to be burned shall be favorable to good burning which will minimize air pollution. Green or wet materials may not be burned.
  - (g) The open burning is not prohibited by any local, county, municipal, or other governmental rule, regulation, law, or ordinance.
  - (h) The open burning is enclosed in a noncombustible container or ground excavation covered by a metal mesh or grill, and is setback at least 25 feet from any woodlands, forest, or brush.
- (2) Open burning to reduce yard trash generated on occupied residential premises of not more than two family units in areas that are designated as non-attainment or maintenance areas for ozone as defined in Florida Administrative Code Rule 62-275 is allowed if a municipal, county or commercial solid waste collection service for yard trash is not available on a periodic basis of at least once a week. Prior authorization shall be obtained from the Department. The open burning must comply with all of the conditions contained in Florida Administrative Code Rule 62-256.090(1), and does not relieve any person from complying with any other applicable laws, rules and ordinances, including

- Chapter 590, Florida Statutes, and rules of the Division of Forestry.
- (3) A camp fire, bonfire or other fire will be allowed that is used solely for recreational purposes, for ceremonial occasions, for outdoor non-commercial preparation of food, or on cold days for warming of outdoor workers, as long as excessive visible emissions are not emitted.
  - (4) Open burning for the flaring of waste gases is allowed for reasons of safety, as long as excessive visible emissions are not emitted.
  - (5) Open burning is allowed for the instruction and training of organized fire fighters or industrial employees under the supervision of the appropriate public fire control official provided that:
    - (a) The burning activities are conducted by a full-time municipal fire control agency in accordance with the National Fire Protection Association document, "Live Fire Training Evolutions in Structures (NFPA 1403)," as revised February 10, 1992, and hereby adopted and incorporated by reference as the accepted practice for fire training instruction. Nothing herein shall be construed as relieving any person from complying with any other applicable laws, rules and ordinances, including Chapter 590, Florida Statutes, and rules of the Division of Forestry.
    - (b) The Division of Forestry, the Department, and local fire control officials are notified in advance of the time and place of the burning exercise.
  - (6) 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 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 shall meet the following conditions:
1. The open burning does not produce smoke, soot, odors, visible emissions, heat, flame, radiation, or other conditions to such a degree as to create a nuisance.
  2. 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.
  3. The fire is ignited after 9:00 A.M. and is extinguished one hour before sunset of the same day.
  4. 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).
  5. The open burning is enclosed in a noncombustible container or ground excavation covered by a metal grill.
  6. Nothing herein shall relieve any person from complying with any other applicable laws, rules and ordinances, including Chapter 590, Florida Statutes, and rules of the Division of Forestry.

History: New 7-1-71; Amended 1-11-82, 10-10-82, 7-30-85, 10-20-86, 8-26-87, 11-23-88; Formerly 17-5.09; Previously numbered as 17-5.090, Formerly 17-256.700, Amended 11-30-94.  
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**62-256.800 Effective Date.**

This chapter, unless otherwise specified, shall become effective July 1, 1971.

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