



NEW MEXICO
ENVIRONMENT DEPARTMENT



SUSANA MARTINEZ
Governor
JOHN A. SANCHEZ
Lieutenant Governor

525 Camino de los Marquez, Suite 1
Santa Fe, New Mexico, 87505
Phone (505) 476-4300 Fax (505) 476-4375
www.nmenv.state.nm.us

RYAN FLYNN
Cabinet Secretary
BUTCH TONGATE
Deputy Secretary

Air Quality Bureau

MEMORANDUM

DATE: November 10, 2014
TO: All Air Quality Bureau Permitting Staff and Air Curtain Incinerator Operators
FROM: Ted Schooley, Permit Programs Manager, Air Quality Bureau 
SUBJECT: Air Curtain Incinerator Air Permit Synopsis for the State of New Mexico

The goal of this memo is to provide operators of above-ground, commercially manufactured Air Curtain Incinerators (ACI) a synopsis of air permit requirements in the State of New Mexico for ACI units that burn 100% wood waste, yard waste, and/or clean lumber.

Owners and operators of air curtain incinerators (ACI) are advised to seek air permitting guidance from the Air Quality Bureau Permit Section before pursuing any particular permitting path, but especially for ACI not burning material according to the paragraph above. For air permitting guidance, please contact:

Liz Bisbey-Kuehn 505-476-4338 elizabeth.kuehn@state.nm.us

Federal Regulations and Requirements: All of the following regulations in 40 CFR 62 Subparts FFF & III and 40 CFR 60 AAAA, CCCC, DDDD, EEEE, FFFF include requirements for Air Curtain Incinerators (ACI) that burn:

- (1) 100 percent wood waste,
- (2) 100 percent clean lumber, and/or
- (3) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

Note that all of these federal regulations require all owners/operators of an ACI to obtain a Title V permit and to meet the requirements in the federal regulation listed above, that applies to your ACI.

In addition to the requirement to obtain a Title V permit, the owner/operator must also:

- (1) Notify the Department before using the ACI for the first time,
- (2) Record and report the type of material combusted,
- (3) Complete an initial opacity compliance test within 60 days of startup of the unit,
- (4) Complete annual opacity compliance tests,
- (5) Report the test results from the initial and annual opacity tests, and
- (6) Meet the opacity limits that are required in the federal regulation

A complete Title V permit application must be submitted to the New Mexico Air Quality Bureau within 12 months after the owner/operator starts using the ACI (or within 12 months of commencement of operation). TV permits for ACI don't require permit fees. If you have submitted your Title V permit application within 12 months of when you started operating your ACI, you may continue to operate your ACI during the time it takes to obtain your Title V permit as long as you provide timely responses to our questions about your application (See 20.2.70.300.C(4) NMAC). Failure to submit a Title V application within 12 months is a violation of the regulations. Please contact Liz Bisbey-Kuehn to obtain this TV application and for assistance in submitting this application form.

Solid Waste Bureau Requirements

The Solid Waste Bureau has its own set of requirements for ACI in New Mexico. Please contact George Schuman at (505) 827-2328 or george.schuman@state.nm.us. A Solid Waste Bureau registration form for air curtain incinerators can be found at this web address: <http://www.nmenv.state.nm.us/swb/ApplicationsRegistrationsandForms.htm>

Background Information on how ACI are regulated under the Clean Air Act: All ACI are required to obtain a Title V permit under the Clean Air Act (CAA). There is no exemption from the requirement to obtain a Title V permit. The requirement for an ACI to obtain a Title V permit is established in each of the following Federal Regulations at the citation provided:

- (1) NSPS CCCC at §60.2242
- (2) NSPS DDDD at §60.2810
- (3) NSPS EEEE at §60.2974
- (4) NSPS FFFF at §60.3069

Every ACI is subject to one of the above Federal Regulations. Applicability to a specific Federal Regulation is based on the date the unit was manufactured. Additionally, on October 16, 2008, EPA Headquarters published a memo clarifying the requirement to obtain a Title V permit. A link to the EPA memo is provided here: <http://www.epa.gov/region7/air/title5/t5memos/curtain.pdf>

ACI are considered a "solid waste incineration unit" under section 129 of the Clean Air Act and are regulated as solid waste incineration units, unless they meet the exemption for ACI at 129(g)(1)(C). The exemption does not exempt ACI from the above mentioned notification & recording requirements, obtaining a Title V permit, meeting the opacity requirements and conducting the required opacity tests. However the exemption is important for ACI as it reduces the number of other applicable requirements for ACI found in these regulations. The exemption language states an

ACI is not considered a solid waste incineration unit (and thus subject to the wider requirements of the regulations) *if such incinerators only burn wood wastes, yard wastes and clean lumber and that such air curtain incinerators comply with opacity limitations to be established by the Administrator by rule.* The benefit of exempting an ACI from the definition of solid waste incineration unit is an owner/operator avoids having to comply with substantial additional requirements for solid waste incineration units.

The opacity limitations established by the Administrator (EPA) by rule are codified in the various Federal Regulations listed above (e.g., NSPS AAAA, CCCC, DDDD, EEEE). In order to qualify for the exemption, an owner/operator must comply with the requirements of the specific NSPS that is applicable to the ACI.

There are two potential pathways for an owner/operator to operate an ACI under the CAA:

- (1) An owner/operator complies with the ACI-specific requirements in the applicable Federal Regulation, obtains a Title V permit, and meets the requirements of the exemption; or
- (2) An owner/operator obtains a Title V permit and complies with all of the requirements for solid waste incinerator units in the applicable Federal Regulation.

Possible Waiver from the US EPA from the requirement to obtain a Title V Permit:

The only time that US EPA will consider granting a waiver from the requirement to obtain a Title V permit is if an emergency is declared in the State of New Mexico and the ACI is used in direct response to that emergency.

Portable ACI: Many ACI are portable. The fact that an ACI is portable does not exempt it from any of these air quality requirements.

Compliance with federal regulations: The federal regulations contain specific notification requirements that must be submitted to the Department **prior** to startup of the ACI and compliance test requirements that must be conducted within 60 days of startup.

Multiple Owner Operators: An ACI may have separate owners and operators. Both the owner and the operator are individually subject to these regulations. Once a permit is obtained by either the owner or operator, it will designate which is the responsible party.

Conclusion: If the owner/operator is using an above ground commercially manufactured Air Curtain Incinerator; that will burn only 100% wood waste, yard waste, and/or clean lumber; and that meets the opacity standards of the applicable NSPS, then the ACI may be set up and operated in accordance with the NSPS without first obtaining a pre-construction air permit. The ACI owner/operator must submit a complete Title V permit application within 12 months of commencing operations of the ACI.

The New Mexico Air Quality Bureau will continue working to find an expedient path forward for simplifying the air permit application process and will update this guidance as this process develops. Therefore, please check our ACI website periodically for new information.

