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Air Quality Bureau

MEMORANDUM

DATE: September 17, 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. For air permitting guidance, please contact:

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

For Solid Waste Bureau requirements for Air Curtain Incinerators 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>

Clean Air Act: ACIs are considered a “solid waste incineration unit” that are subject to section 129 of the Clean Air Act unless they meet the exemption under the Act at 129(g)(1)(C). The AQB has determined that if the unit is subject to a Federal Plan Requirement in 40 CFR 62 or to a New Source Performance Standard (NSPS) in 40 CFR 60, a Title V permit requiring the opacity standard and limit on types of material combusted can be used to meet the section 129(g)(1)(C) exemption.

Federal Regulations: 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.

Most of these regulations provide exemptions that allow a reduced set of requirements of these regulations for ACI units if a Title V permit requiring the opacity standard and a limit on the types of material combusted is obtained. The AQB suggests that operators of ACI that burn 100% clean forest wood waste determine whether their unit is subject to one of the regulations in 40 CFR 62 or 40 CFR 60. The New Source Performance Standards (NSPS) EEEE (40 CFR 60, Subpart EEEE) is the most recent regulation that was promulgated. These regulations typically contain specific notification requirements prior to start up and compliance tests within 60 days of startup.

Scenario 1:

Part 72 Pre-Construction Permit [[Link to the pre-construction permit regulation CONSTRUCTION PERMITS](#)]: A pre-construction air permit is required for any ACI unit that is:

- a) **not** subject to one of the above mentioned Federal regulations;
- b) that is a below ground level trench type and not an above ground commercially manufactured ACI; or
- c) does not combust 100% wood waste, yard waste, and/or clean lumber

If your ACI requires a pre-construction permit, a pre-construction permit must be obtained before installing and operating your ACI. Construction permits take up to 120 days or more from receipt of a complete application and require air dispersion modeling, permit fees and public notice.

Scenario 2:

Part 70 Title V Operating Permit [[Link to TV operating permit regulation OPERATING PERMITS](#)]: Even if a pre-construction air permit is not required, US EPA Region 6 requires that a Title V Operating permit be obtained for all air curtain incinerators in order to be exempt from the federal law that applies to solid waste incineration units found in Section 129 of the Clean Air Act.

A complete Title V permit application must be submitted to the New Mexico Air Quality Bureau within 12 months after the owner/operator starts operating the ACI (or within 12 months of commencement of operation). Under the Title V regulations, it may take up to 20 months to receive the Title V Operating permit. However, these permits 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). The Air Quality Bureau will accept a reduced application form from ACI owner/operators and will expedite the permitting process. Please contact Liz Bisbey-Kuehn for assistance in submitting this application form.

Scenario 3

Possible Waiver from a Title V Permit:

In our previous ACI guidance, the Air Quality Bureau said that it may be possible for an ACI owner/operator to obtain a waiver from US EPA from the requirement of a Title V permit. However, US EPA has notified us that that is not true. See US EPA's October 2008 memo on our website regarding this matter [2008 EPA ACI TV Guidance](#). The only time that US EPA will consider granting a waiver from the requirement of 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 ACIs: Many ACIs are portable. The fact that an ACI is portable does not exempt it from any of these requirements.

Compliance with federal regulations: The federal regulations mentioned previously typically 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, the permit will designate which is the responsible party.

Conclusion: If the owner/operator is using an above ground commercially manufactured Air Curtain Incinerator; determines that an NSPS applies; that it will burn only 100% wood waste, yard waste, and/or clean lumber; and that it meets the opacity standards of the applicable NSPS, 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.